(2018) 10 P&H CK 0324

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 9624 Of 2018

Sanjeev Kumar And Another APPELLANT

Vs

Shriram Housing Finance Limited And Another RESPONDENT

Date of Decision : 23-10-2018

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 13(2), 13(4)

Citation : (2018) 10 P&H CK 0324

Hon'ble Judges : Ajay Kumar Mittal, J;Avneesh Jhingan, J

Bench : Division Bench

Advocate : Antiaz Sandhu, Karan Bhardwaj

Final Decision : Disposed off

Judgement

1. The present writ petition has been filed seeking quashing of notice dated 01.05.2017 (Annexure P-2) issued under Section 13(2) of the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') and notice dated 26.03.2018

(Annexure P-3)

2. The petitioners are borrowers of loan. Shriram Housing Finance Ltd., Plot No.2, 3rd Floor, E-Block, Sector 1, Noida-201301 and Shriram Housing

Finance Ltd., Office No. 123, Angappa Naicken Street, Chennai- 600001, have been arrayed as respondents No.1 and 2 respectively in this writ

petition.

3. The petitioners availed a loan of Rs.41,74,598/- from the respondent-Bank. In order to secure the credit facility availed, the petitioners mortgaged

their residential house bearing No. 2372, Opposite Gurudwara Mansa Singh, Buria Gate, Jagadhri, Yamunanagar, Haryana 135001.

4. The petitioners failed to maintain the financial discipline, consequently, the loan account was classified as Non-Performing Asset (NPA). The

respondent-Bank issued a notice dated 01.05.2017 under Section 13(2) of the Act. As per the notice, there were outstanding dues of Rs.45,06,066/-.

Thereafter, the respondent-Bank issued a notice under Section 13(4) of the Act. Aggrieved of the recovery proceedings initiated under the Act, the

present petition has been filed.

5. On 20.04.2018 while issuing notice of motion, the following order was passed.

â??Notice of motion for 01.08.2018.

Subject to the petitioners' depositing a demand draft of Rs.2.00 lacs within three days from today followed by payment of another Rs.2.00 lacs within

one month thereafter, action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 shall

remain stayed. The respondents are further directed to produce the complete statement of account as it alleged that the interest is being levied on daily

basis.

6. During the pendency of the present petition, the petitioners have deposited a sum of Rs.4,00,000/- in terms of order dated 20.04.2018.

7. Heard learned counsel for the parties.

8. Learned counsel for the petitioners submitted that the petitioners would approach the respondent-Bank with a proposal to clear the over due amount

and the respondent-Bank be directed to consider and decide the same in a time bound manner.

9. Learned counsel for the respondent-Bank argued that in case a reasonable proposal is made by the petitioners, the respondent-bank will consider

the same.

10. Without expressing any opinion on the merits of the case and keeping in view the facts of the case, the present petition is disposed of with the

following directions:

(i) The petitioners shall approach the respondent-Bank within one month from today with a proposal containing the time schedule to clear the

outstanding dues. Along-with the proposal petitioners shall deposit a demand draft of Rs.5,00,000/-

(ii) The respondent-Bank on receipt of proposal shall decide the same in accordance with law, after affording an opportunity of hearing to the

petitioners by passing a speaking order. The decision on the proposal shall be taken at the earliest but not later than one month from the receipt of

proposal;

(iii) It is clarified that in case the petitioners fail either to submit proposal within specified time alongwith demand draft of Rs.5,00,000/-, respondent-

Bank shall be at liberty to proceed in accordance with law;

(iv) The interim protection granted by this Court vide order dated 20.04.2018 shall continue till the decision is taken by respondent-Bank on the

proposal submitted by the petitioners;

(v) However, it is clarified that extension of interim protection shall not be construed as an expression of opinion on the merits of the case by this

Court.