

Court No. - 3

Case :- WRIT - C No. - 32902 of 2023

Petitioner :- M/S Pappu Building Material And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ashutosh Kumar Pandey, Sunita Chauhan

Counsel for Respondent :- C.S.C., Ashish Agrawal, Saumya Srivastava

Hon'ble Siddhartha Varma, J.

Hon'ble Manoj Bajaj, J.

Heard learned counsel for the petitioner, learned Standing Counsel and Ms. Saumya Srivastava learned counsel appearing for the Bank.

2. By means of the present writ petition, the petitioners have prayed for quashing recovery citation dated 20.2.2023 issued by the respondent no. 3.

3. Learned counsel submits that a loan of Rs. 10,00,000/- was taken by the petitioners. They had also mortgaged a property bearing Gata No/Plot No./Survey No. 122, area 0.056 links or 227 sqmt. situate at village/mauza - Makhanaha Post - Amari, Pargana - Atrauliya Tehsil - Budhanpur, District - Azamgarh (U.P.) in the name of Mrs. Poonam w/o Mr. Pappu Shilpkar R/o village Makhnaha Pargana - Atrauliya, Tehsil - Budhanur, District - Azamgarh - 276142. Learned counsel has further pointed out that when certain payments of the loan installments were not made, the creditor Bank initiated proceedings of recovery under the Act by issuing demand notice dated 18.4.2023 and demanded a sum of Rs. 12,92,044- alongwith interest and other charges. Learned counsel has drawn the attention of the Court to the impugned notice dated 1.7.2023 and asserted that the Bank has taken symbolic possession of the mortgaged property and would be strongly taking further steps to recover the dues by auctioning the mortgaged property.

4. At the very outset learned counsel for the petitioners has proposed to deposit 25% of the outstanding amount within a period of one month from today, with an undertaking that the remaining amount shall be paid in next three equal installments within four months.

5. Learned counsel for the Bank does not dispute the fact that

pursuant to the recovery proceedings including the impugned notice dated 01.07.2023, no auction proceedings have been fixed. He, however, states that the Bank has no objection if the borrower is willing to clear the debt by paying 25% of the outstanding amount within a period of one month from today and remaining amount in next three equal installments within four months.

6. In view of the above stand of the learned counsel for the parties, at this stage, without looking into the merits of the case, we deem it appropriate to afford an opportunity to the borrower to clear the debt by paying 25% of the outstanding amount within a period of one month from today, and the remaining amount in next three equal installments within four months. The outstanding debt be directed to be paid with up-to-date interest.

7. Needless to say that when the last installment is paid by the petitioners, the bank shall inform the petitioners the interest amount which would have accrued by the last date of payment and it shall be paid along with the last installment.

8. We clarify that, if, the amount as has been promised by the petitioners are not deposited as per the undertaking then the Bank shall be free to recover the debt pursuant to the impugned notice.

9. With these observations the writ petition is disposed of.

Order Date :- 31.10.2023

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(Manoj Bajaj,J.) (Siddhartha Varma,J.)