

Court No. - 3

Case :- WRIT - C No. - 37549 of 2023

Petitioner :- Smt. Geeta Singh

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Om Prakash Singh

Counsel for Respondent :- C.S.C,Ajal Krishna

Hon'ble Siddhartha Varma,J.

Hon'ble Manoj Bajaj,J.

1. The writ petition has been filed with the following prayers:-

A. Issue a writ, order or direction in the nature of mandamus direct to the concerned no.2 i.e. Baroda U.P. Bank Branch, Phoolpur, District Azamgarh to give the correct account to the petitioner and further accept amount concerned in easy installment in pursuance of notice dated 1.3.2023 amount Rs.5,32,835/- + interest.

B. Issue a writ, order or direction in the nature of mandamus direct to the concerned bank not to initiated auction proceedings in pursuance of notice dated 1.3.2023.

2. Learned counsel for petitioner submits that a business loan was taken by the private respondent no.3 on 30.9.2016 from Baroda U.P. Bank Branch Phoolpur, District Azamgarh and the petitioner had mortgaged a property bearing Gata No. 150, area 1.995 and 5.1 Kari owned by the petitioner. Learned counsel has further pointed out that when certain payments of the loan installments were not made by the respondent no.3, the creditor bank initiated proceedings of recovery under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act') by issuing notice dated 1.3.2023 and demanded a sum of Rs.5,32,835/- alongwith interest and other charges. Learned counsel has drawn the attention of the Court to the impugned notice dated 1.3.2023 and asserted that the Bank has taken symbolic possession of the mortgaged property and it makes clear that the Bank would be taking further steps to recover the dues by auctioning the mortgaged property.

3. At the very outset, learned counsel for petitioner has proposed to deposit 25% of the outstanding amount within a period of one month from today, with an undertaking that the remaining amount

be paid in next three equal monthly installments.

4. Ajal Krishna, learned counsel for Bank, does not dispute the fact that pursuant to the recovery proceedings including the impugned notice dated 1.3.2023, no auction proceedings have been fixed. He further does not oppose the prayer and stated that if the borrowers are willing to clear the debt in installments, the outstanding debt be directed to be paid with up-to-date interest.

5. 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 borrowers to clear the debt in installments i.e. by depositing 25% of the outstanding amount within a period of one month from today, and the remaining amount be paid in three equal monthly installments.

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

7. We clarify that, if, the amount as has been promised by the petitioner is not deposited as per the undertaking then the Bank shall free to recover the debt pursuant to the impugned notice dated 1.3.2023.

8. With these observations, the writ petition is disposed of.

Order Date :- 1.11.2023

P.S.Parihar