

Court No. - 3

Case :- WRIT - C No. - 39110 of 2023

Petitioner :- Sandesh Chandra Gupta

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

Counsel for Petitioner :- Veerendra Kumar Shukla

Counsel for Respondent :- C.S.C., Sanjay Kumar Gupta

Hon'ble Siddhartha Varma, J.

Hon'ble Manoj Bajaj, J.

Heard learned counsel for the petitioner, Sri Sankay Kumar Gupta, learned counsel for the respondent-Bank and learned Standing Counsel for the State.

The petitioner had taken a loan of Rs. 23,04,452/-. When he had failed to deposit the settled installments, then the recovery was being made. Various attempts were made for a one time settlement but when they failed, recovery under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, was initiated against which the petitioner had approached this Court by filing Writ-C No. 22708 of 2023, which was disposed of by the writ Court on 03.08.2023. Relevant portion of the order of the Writ Court dated 03.08.2023 is reproduced hereunder:-

"5. We are conscious of the legal position that the petitioner has a remedy to approach the DRT by assailing the order impugned dated 31.08.2021 and possession notice dated 19.06.2023 by drawing proceedings under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 but considering the peculiar facts of the present case and taking note of the fact that OTS had been accepted by the Bank and the petitioner could not comply with the OTS terms in totality on account of factors beyond his control we deem it appropriate to dispose of the writ petition by requiring the petitioner to approach the respondent Bank with a proposal for clearing the dues of the Bank within two weeks from today along with deposit of 50% of the dues of the Bank, the respondent Bank shall consider and pass appropriate orders in respect thereof within a period of three weeks of the receipt of the proposal. Till such decision is taken by the respondent Bank no coercive action shall be taken against the petitioner consequent to the impugned order dated 31.08.2021 and possession Notice dated 19.06.2023 including putting the mortgaged property to auction. The petitioner shall strictly abide by the terms of the OTS and in the event of default it shall be open for the respondent Bank to revive the proceedings against the petitioner and proceed in accordance with law."

Learned counsel for the petitioner states that instead of depositing 50% of the amount due on that date, as per the order of the Writ Court, he had deposited only Rs. Seven lacs.

Learned counsel for the respondent-bank states that since the petitioner had not complied with the order of Writ Court dated 03.08.2023, the bank had no other option but to continue with the recovery proceedings under the SARFAESI Act. Learned counsel for the Bank has informed that the property, in question, has been sold in auction on 08.11.2023.

Under such circumstances, no interference is warranted. The writ petition is dismissed.

It is however, provided that the petitioner, if he so desires, can approach the Debt Recovery Tribunal under the various provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002.

Order Date :- 9.11.2023

Shiraz