

Court No. - 3

Case :- WRIT - C No. - 42183 of 2023

Petitioner :- M/S Shukla Traders

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

Counsel for Petitioner :- Kripa Shankar Tiwari, Shivani Chaudhary

Counsel for Respondent :- C.S.C., Anadi Krishna Narayana

Hon'ble Siddhartha Varma, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

1. This writ petition has been filed by the Firm through its proprietor Sri A.K. Shukla. On an earlier occasion Sri A.K. Shukla alongwith his wife Smt. Suman Shukla filed a writ petition being Writ - C No. 23446 of 2023 in which on 20.7.2023 the following order was passed:-

"Petitioners have approached this Court challenging the proceeding initiated by the Bank under the SARFAESI Act only on the ground that the petitioners are willing to pay the entire amount due and payable to the Bank by them.

It is submitted by learned counsel for the petitioners that the petitioner no.2 is recently suffering from brain hemorrhage on account of which the dues could not be deposited.

Sri A.K. Narayan has entered appearance on behalf of the respondent Bank of Baroda and submits that in the event petitioners are willing to repay the entire amount in two bi-monthly installments, the respondent Bank is willing to accept such amount together with interest. He also informs the Court that amount payable by petitioners, as on date, is Rs.35 lacs. He also submits that interest on the amount shall be payable for the future periods.

Learned counsel for the petitioners is allowed reasonable time to deposit the amount and readily accepts the proposal made by the learned counsel for the Bank.

With the consent of learned counsel for the parties, we dispose of this writ petition on following terms:-

(i) Petitioners shall deposit Rs.10 lacs/- on or before 20 August, 2023.

(ii) In the event such a deposit is made by the petitioners, he shall have the liberty to deposit the balance amount in two bi-monthly installments along with interest. No coercive action shall be taken against the petitioners for the above periods subject to its compliance.

In the event such deposits are made, the Bank shall withdraw all coercive

steps taken against the petitioners.

However, in the event of any failure in complying with the above directions, the interim protection granted against coercive measures shall stand automatically vacated and the Bank shall be at liberty to proceed against the defaulters in accordance with law. "

2. Learned counsel for the petitioner states that, thereafter, when the petitioner could not deposit the entire amount he had prayed the Bank and the Bank had also granted time on 19.8.2023 for depositing Rs. 27 lacs. In fact, on 21.8.2023, the petitioner had also deposited Rs. 10 lacs. However, since the amounts as were to be deposited as per the order of the High Court were not deposited, the Bank considered the One Time Settlement as having failed. The Bank, therefore, had refused any further indulgence.

3. Today, Sri Ajal Krishna learned counsel for the Bank states that if the petitioner deposits 50% of the entire amount which is due to him by 31.12.2023 then the Bank would accept the remaining 50% amount by 31.1.2024. However if the amount is not deposited in the aforesaid manner then, Sri Ajal Krishna states, the Bank would be forced to initiate recovery proceedings. Sri Ajal Krishna learned counsel for the Bank also states that till date no proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, has been initiated.

4. Learned counsel for the bank Sri Ajal Krishna states that this indulgence was being granted to the petitioner as the petitioner

is suffering from brain haemorrhage.

5. Under such circumstances, looking into the overall circumstances of the case, we are of the view that if the petitioner deposits 50% of the entire amount due to the petitioner by 31.12.2023, then the Bank would accept the remaining 50% amount also by 31.1.2024. However, if the petitioner defaults in the payment then the Bank shall be free to initiate coercive action against the petitioner.

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

7. It may be mentioned that the Bank may provide the statement of account within a period of one week.

Order Date :- 7.12.2023

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(Syed Qamar Hasan Rizvi,J.) (Siddhartha Varma,J.)