



SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	06.11.2024		SPA No. 342 of 2024 <u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u> <u>Hon'ble Vivek Bharti Sharma, J.</u> 1. Mr. Ashish Joshi, learned counsel for appellants. 2. Mr. Rahul Adhikari, learned counsel for respondent. 3. This intra-Court Appeal is directed against the final order dated 23.09.2024 passed by learned Single Judge in Writ Petition (M/S) No. 2560/2024. Operative portion of the said order is extracted below : <i>"7. In the opinion of this Court, respondents bank want its money back and for that purpose respondents bank is ready to give one month's time to the petitioner in order to settle the equity between the parties, this Court is granting three months' time to the petitioner to deposit the entire outstanding amount to the respondents bank."</i> 4. It is not in dispute that Pyare Lal Tamta (respondent herein) took a loan in the shape of a Cash Credit Limit from Canara Bank, Branch Bhaniawala, District Dehradun. Since there was some default on his part in repayment of loan, the Bank invoked its power under the SARFAESI Act, 2002 by issuing a notice under Section 13(2) and Section 13(4) of the SARFAESI Act, and, thereafter, the secured asset was put to public auction. The borrower (respondent herein) approached the Debts Recovery Tribunal, Dehradun under Section 17 of the SARFAESI Act. Learned Debts Recovery Tribunal directed the borrower (respondent herein) to deposit Rupees Ten Lakhs with the Bank within fifteen days. 5. The borrower (respondent herein) approached this Court with the contention that it is not possible for



him to arrange for the funds within fifteen days, therefore, the time be extended to three months. The contention raised by the borrower (respondent herein) found favour with the learned Single Judge, and the learned Single Judge extended the time to three months. However, in the order dated 23.09.2024, learned Single Judge also provided that the borrower shall repay the entire outstanding dues within three months. This order has been challenged by the Canara Bank in this Special Appeal.

6. It is contended by learned counsel for appellants-Bank that the learned Single Judge has not indicated the instalments, within which the entire outstanding dues have to be repaid. Therefore, on this ground alone, the impugned order deserves to be set-aside.

7. Learned counsel for borrower (respondent herein), however, submits that the ground taken by Bank for challenging the impugned order is not available to it, as the order passed by the learned Single Judge takes care of the interest of the Bank, and the borrower has been called upon to clear-off the entire outstanding dues within three months, and his client will repay the entire dues in one go, within the time provided by the learned Single Judge. He submits that the outstanding dues against his client was around Rupees Twenty Lakhs in the month of June, 2024, which have been reduced to about Rupees Fifteen Lakhs, after deposit of Rupees Five Lakhs by his client, and the remaining Rupees Fifteen Lakhs and odd would be deposited by his client (respondent herein) within the time indicated in the order passed by the learned Single Judge.



8. We find force in the submission made by learned counsel for respondent-borrower. Since the interest of the Bank has been taken care of in the impugned order, and the borrower has been directed to repay the entire outstanding dues in one go, within three months, therefore, no prejudice is caused to the lending Bank.

9. Thus, we do not find any reason to interfere with the order passed by the learned Single Judge. The Special Appeal fails, and is, accordingly, dismissed.

10. Pending application(s), if any, also stand disposed of.

(Vivek Bharti Sharma, J.)
06.11.2024

(Manoj Kumar Tiwari, A.C.J.)
06.11.2024

Rahul

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