IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 18166 of 2016
Date of Decision: 31.1.2017

Jatinder Singh ..Petitioner

versus

Oriental Bank of Commerce, Thanesar Branch, District Kurukshetra thorough its Branch Manager ..Respondent

CORAM; HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. R.S.Mamli, Advocate, for the petitioner.

Mr. B.R.Bansal, Advocate, for the respondent-Bank

RAMENDRA JAIN, J.

1. Petitioner as father, obtained loan of ₹ 12 lac, for his daughter's education, to be repayable in 07 years, in equal monthly installment of ₹ 22,700/- to be started from November, 2011 after completion of one year course, which, however, was increased from 01 year to 03 years. The petitioner, therefore, requested the respondent-bank to recover the loan installment after three years, i.e., from 01.6.2014 or at the most in the year 2015, but his request was not acceded to. Even the daughter of the petitioner for whose study the education loan was taken, from the respondent-bank, also made a request to the respondent-bank to repay the loan amount after getting job as her financial condition was not good. But the respondent-bank did not accede to her request too. Ultimately, the respondent-bank issued the impugned notice dated 02.04.2016

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(Annexure P-4) under section 13(2)of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act"), declaring the loan account of the petitioner as Non-Performing Asset (NPA) and also for putting the residential house of the petitioner to auction.

2. By way of the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ of certiorari/mandamus quashing the aforesaid impugned notice dated 02.04.2016 (Annexure P-4), directing the respondent-bank to restructure the loan account of the petitioner and recover the loan amount in installments.

3. The petitioner, in order to show his bona fides, was required to produce a demand draft of ₹ 3 lac, latest by 16.12.2016, but did not bring the same alleging some financial difficulty on that date and even on the extended date, i.e., 27.1.2017. Learned counsel contended that the petitioner would produce the demand draft of ₹ 3 lac, latest by 31.3.2017 and, therefore, he may be granted two months' time to produce the same, to show his bona fides and further to repay the loan amount in installments.

4. Having heard learned counsel for the parties and giving our thoughtful considerations to the submissions raised by learned counsel for the parties, we do not find any merit in the present writ petition. Despite availing the three effective dates, i.e., 16.12.2016, 27.1.2017 and 31.1.2017, the petitioner has not produced the demand draft amounting to ₹ 3 lac to establish his bona fides. Moreover, it is also needless to mention here that at the time of motion hearing, i.e., 02.09.2016, it was urged by the learned counsel for the petitioner that the petitioner was prepared to discharge the balance loan liability in installments, still nothing has been paid towards

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discharge of outstanding liability. Further, a perusal of the account statement, dated 06.08.2016 (Annexure P-3), shows that after 29.12.2015, the petitioner has not paid any amount to the respondent-bank. In such circumstances, no ground to exercise extra-ordinary writ jurisdiction of this court under Articles 226/227 of the Constitution of India is made out.

5. Accordingly, the writ petition fails and is hereby dismissed.

(RAMENDRA JAIN)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

31.1.2017
VK

1. Whether reasoned/speaking Yes/No

2. Whether reportable Yes/No

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