IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21523 of 2016
Date of decision: 15.03.2017

M/s Mahindra Timber Store

....Petitioner

Versus

State Bank of India and another

....Respondents

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

Present: - Mr. Arun Bansal, Advocate, for the petitioner.
Mr. Vikas Chatrath, Advocate, for the respondents.

RAMENDRA JAIN, J.

1. Shorn of unnecessary details, the facts relevant for disposal of the present writ petition are that in March, 2013, petitioner obtained cash credit limit of ₹ 15 lakh from the respondent-bank to run his business, which was further increased to ₹ 19.5 lakh in April 2014. When the petitioner did not adhere to the financial discipline of the bank, respondent-bank issued notice dated 13.10.2015 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002 (in short 'the SARFAESI Act') to the petitioner for recalling the entire loan amount. Thereafter, respondent-bank issued another notice dated 21.01.2016 (Annexure P-1) under Section 13(4) of the SARFAESI Act seeking possession of the mortgaged property of the petitioner. Finally, respondent-bank took possession of the property of the petitioner on 07.10.2016 vide possession notice of even date (Annexure P-3). Thereafter, respondent-bank issued notice dated 07.10.2016 (Annexure P-4) for sale of

the seized assets of the petitioner.

2. Hence by way of instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of *certiorari* for quashing the possession notice dated 07.10.2016 (Annexure P-3) and further for issuance of a writ in the nature of *mandamus* to stay the further proceedings during the pendency of the writ petition and to restore back the possession of the property measuring 2 kanals to the petitioner.

3. It is pertinent to mention here that on the first date of hearing on 18.10.2016, learned counsel for the petitioner had submitted that petitioner was prepared to discharge the entire liability of ₹ 20 lakh. Hence, in order to see the bona fides of the petitioner, it was directed to produce a demand draft of ₹ 5 lakh on 25.10.2016. On 25.10.2016, on presentation of demand drafts of ₹ 5 lakh, same were returned to learned counsel for the petitioner to deposit the same with the respondent-bank and notice of motion was issued. On 08.02.2017, learned counsel for the petitioner undertook to produce a further demand draft of ₹ 5 lakh and thereafter to discharge its entire liability by making payment of ₹ 50,000/- on monthly basis. Accordingly, at the request of learned counsel for the petitioner, case was adjourned to 09.03.2017 for production of demand draft. On 09.03.2017, the demand draft of ₹ 5 lakh was produced and the same was returned to learned counsel for the petitioner to deposit the same with the respondent-bank while adjourning the case for today.

4. We have heard learned counsel for the parties and perused the record.

5. Admittedly, in-spite of producing the demand draft in Court on 09.03.2017, the petitioner did not comply with the order dated 09.03.2017, whereby it was required to deposit ₹ 5 lakh with the respondent-bank for the reasons best known to it. This lackness on the part of the petitioner to show its bona fides disentitles the petitioner to grant of any relief by this Court in extra-ordinary writ jurisdiction under Articles 226/227 of the Constitution of India.

6. Accordingly, the present petition being devoid of any merit is hereby dismissed.

(RAMENDRA JAIN)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

March 15, 2017
R.S.

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No