IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.9162 of 2017
Date of decision : 22.08.2017

Vikas Jain ..... Petitioner

VERSUS

State Bank of India and another ..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vikas Jain, petitioner in person.

Mr. Vijay Sharma, Advocate
for the respondents.

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SUDHIR MITTAL, J.

Aggrieved by the inaction of the respondent-Bank in selling the asset furnished as security within a reasonable period of time, the petitioner has approached this Court to settle the issue regarding default in re-payment of loan, by auctioning the asset at a value assessed in valuation report (Annexure P-3) and discharging the petitioner from his liability.

2. The petitioner had secured five different loan facilities by successively mortgaging House No.34-B, Sector-9 and 11, Hisar measuring 438.19 square yard. Since his accounts were declared Non-performing Asset (NPA), notice dated 09.05.2015 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFEASI Act') was issued, wherein the liability of the petitioner has been pegged @ ₹1,30,24,644/- as on 30.04.2015. The petitioner preferred objections

under Section 13-A of the SARFEASI Act, but, no payment was made towards the outstanding amount and therefore, notice dated 05.12.2015 under Section 13(4) of the SARFEASI Act was issued. Actual physical possession was also taken on 28.04.2016 in the presence of the petitioner.

3. The petitioner submits that the respondent-Bank delayed the process of auction of the secured asset, as a result of which, it has not been able to fetch an adequate price at the auctions held by the respondent-Bank. It is the further grievance of the petitioner that he has not been permitted to inspect the property whenever he has brought a buyer for the same. According to him, the property is in a dilapidated condition as the security employed by the respondent-Bank was actually not doing its job. This has further resulted in reduction of the value of the said property. Photographs have been shown to us to support the said contention.

4. It is an undeniable fact that as on 20.05.2017, the claim of the respondent-Bank has increased to ₹2,18,62,750.34/-. The petitioner is bound to repay this amount and he cannot pass on the blame to the respondent-Bank for being unable to realize a value for the security asset, which is considered just and proper by him. It is also a fact that the respondent-Bank has not maintained the security asset properly as is evident from the photographs. To balance the interest of both the parties, we consider it expedient to direct the respondent-Bank to get the under-growth removed from the security asset at its own expense. Since it has taken the physical possession, it is the Bank's responsibility for proper upkeep of the property without burdening the borrower with maintenance expenses. The house must be made presentable, so that it attracts a potential buyer for the said property. The needful be done within a period of four weeks of receipt

of certified copy of this order. Thereafter, auction would be conducted by seeking a fresh valuation report and by giving wide publicity. The auction process by completed within a further period of three months.

5. Accordingly, this writ petition is disposed of with the above directions.

(SUDHIR MITTAL)
JUDGE

(SURYA KANT)
JUDGE

August 22, 2017
Ramandeep Singh

Whether speaking / reasoned Yes / No

Whether Reportable Yes/ No