**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CWP No.9688 of 2017
Date of decision: 05.05.2017

Madan Lal Bains

....Petitioner

Versus

State Bank of Patiala and others

....Respondents

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

Present: - Mr. J.S. Bhatti, Advocate, for the petitioner.

**RAMENDRA JAIN, J.**

Petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondent-bank to consider his request for regularisation of his home loan account and to restrain it from taking any action against him under the provisions of the Securitisation and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act') or in the alternative to recover the loan liability from his mortgaged property valued at ₹ 69.00 lakh and to refund ₹ 39.00 lakh which would be over and above his loan liability. Further prayer has been made for issuance of a writ in the nature of *certiorari* for quashing the notice under Section 13(2) of the SARFAESI Act and direction to respondents No.1 and 2 to decide his objections sent through post.

2. At the outset, it is pertinent to mention here that the instant writ petition is not happily worded rather is drafted very poorly; without giving any details, inasmuch as when the loan was taken, the quantum of loan

taken, the instalment paid and other ancillary details relating to issuance of notice under Section 13 of the SARFAESI Act. However, it is gathered from pleadings that petitioner had obtained some home loan and when he could not adhere to the financial discipline of the respondent-bank, his loan account was declared as NPA on 01.07.2016. Consequently, respondent-bank issued demand notice under Section 13(2) on 04.07.2016 and then possession notice under Section 13(4) of the SARFAESI Act on 12.09.2016. Thereafter, petitioner sent a request to the respondent-bank for regularisation of his loan account or in the alternative to refund ₹ 39.00 lakh to him after adjusting the loan amount by valuing his mortgaged property at ₹ 69.00 lakh. The petitioner also extended threats in his above request letter (Annexure P-2) that in case his aforesaid offer of regularization of loan account and refund of ₹ 39.00 lakh is not accepted, in that eventuality he would lodge FIR (criminal case) against the higher officials of the bank, including CMD, MD etc. The said proposal of the petitioner was not accepted by the respondent-bank. For this reason, petitioner has knocked at the doors of this Court for grant of aforesaid relief.

3. After giving our thoughtful consideration to the submissions made by learned counsel for the petitioner, we find that present writ petition is completely devoid of any merit for the reasons to follow.

4. Admittedly, petitioner was served demand notice under Section 13(2) of the SARFAESI Act asking him to repay the loan amount. Petitioner, instead of filing any objection or representation under Section 13 (3A) of the SARFAESI Act, made a representation to the respondent-bank for regularisation of his loan account without offering any amount and alternatively asking the bank to refund him ₹ 39.00 lakh by unilaterally

valuing his mortgaged property at ₹ 69.00 lakh after adjustment of loan amount with threats to the bank officials to lodge an FIR against them, in case his offer was not accepted.

5. The above exercise adopted by the petitioner is unknown to law, thus, is illegal. Had the petitioner been fair in his conduct or had any intention to repay the loan amount, he would have filed the objections or representation under Section 13(3A) of the SARFAESI Act within 15 days of the receipt of demand notice under Section 13(2) of the SARFAESI Act and then would have pursued his remedies before the Debt Recovery Tribunal. Non-adoption of any such exercise by the petitioner, completely disentitles him to invoke extra-ordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India. Even otherwise, the petitioner has nowhere mentioned in the writ petition that whether he was prepared to repay the loan amount nor has given any figure as to how much amount he is ready to deposit with the respondent-bank for regularisation of his loan amount, which he has sought by way of representation (Annexure P-2).

6. In view of discussion above, the present petition, being devoid of any merit, is hereby dismissed.

**(RAMENDRA JAIN)**
**JUDGE**

**(AJAY KUMAR MITTAL)**
**JUDGE**

**May 05, 2017**
R.S.

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No