IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10871 of 2018
Decided on : 22.11.2018

Nisar Ahmed Ansari ...... Petitioner

Versus

State Bank of India and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mohd. Salim, Advocate
for the petitioner.

Mr. Pardeep Kumar, Advocate for
Mr. Gaurav Goel, Advocate
for the respondents.

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Manjari Nehru Kaul, J.

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the notice dated 24.03.2018 (Annexure P-1) issued by respondent No.2 under Section 13(12) read with rule 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'Act').

2. The petitioner was sanctioned the Cash Credit Limit of ₹ 12 lakhs on 12.11.2013 by respondent No.2 – bank against the security of asset for expanding his business. As per the petitioner, he was paying the installments regularly but due to losses in his business, was unable to maintain financial discipline and his account was declared as Non-Performing Asset (in short 'NPA') by the bank. Thereafter, a possession notice dated 24.03.2018 was issued to the petitioner. Hence, the present writ

petition has been filed.

3. Vide order dated 03.05.2018, notice of motion was issued in the following terms:

> " *It is submitted on behalf of the petitioner that he is ready and willing to pay the loan amount on its being regularising even at the enhanced rate of monthly installments.*
>
> *Notice of motion for 11.09.2018.*
>
> *Subject to petitioner's depositing a sum of ₹ 1.00 lac within one week and thereafter ₹25,000/- as monthly installments, status quo re: physical possession of the secured assets be maintained."*

4. Learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize his account within a reasonable period and restricted his prayer to the effect that in order to clear outstanding dues or to regularise the account, the petitioner would approach the respondent-Bank with a proposal and the respondent-Bank be directed to decide the same in a time bound manner.

5. Learned counsel for the respondent-bank has submitted that in case a reasonable proposal is made by the petitioner, the respondent-Bank shall consider the same.

6. Heard learned counsel for the parties and perused the paper book with their assistance.

7. Without expressing any opinion on the merits of the case and keeping in view the facts and circumstances of the case, we dispose of the present petition with the following directions:

1. The petitioner shall approach respondent No.2 within one month from today with a proposal for clearing the outstanding dues or to regularize the loan account.

2. The petitioner shall deposit a demand draft of ₹ 3 lakhs alongwith the proposal.
3. Respondent No.2-bank shall consider the proposal submitted by the petitioner sympathetically in accordance with law, after affording an opportunity of hearing to the petitioner and pass a speaking order.
4. The decision on the proposal shall be taken at the earliest by the respondent-bank but not later than two months from the receipt of such proposal.
5. It is clarified that in case the petitioner fails either to submit his proposal within the specified time or fails to deposit a sum of ₹ 3 lakhs, the respondent -bank would be at liberty to proceed in accordance with law.

8. The interim protection granted vide order dated 03.05.2018 regarding status quo shall continue till a decision is taken by respondent bank on the proposal submitted by the petitioner. However, it is clarified that the extension of the interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(MANJARI NEHRU KAUL)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

22.11.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No