IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 10964 of 2018
Decided on : 09.10.2018

M/s Shree Maa Traders ...... Petitioner

Versus

Bank of Maharashtra and another ...... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Manoj Kaushik, Advocate
for the petitioner.

Mr. J.S.Bagga, Advocate
for the respondents.

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AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notice dated 20.02.2017 (Annexure P-1) issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act') and notice dated 08.06.2017 (Annexure P-2) issued under Section 13(4) of the Act.

2. The petitioner is a proprietorship concern. Bank of Maharashtra, NIT Branch Faridabad, District Faridabad and District Magistrate, Faridabad have been arrayed as respondents No.1 and 2 respectively in the present writ petition.

3. The petitioner in February, 2014 availed a cash credit limit to the tune of ₹1,15,00,000/- and term loan of ₹45 lakhs from the respondent-bank. In order to secure the credit facility, the petitioner mortgaged property bearing Khewat/Khatoni No.608/904 Khasra/Rect No.27 Kila No.6(8-0), 15(8-0), 16(8-0) Rect No.28 Kila No.10/2(3-9), 11(8-0), 18(8-0), 19(8-0), 20(8-0), 21/2(2-13), 22(8-0), 23(8-0), Rect No.33 Killa No.2 (7-9), 3(7-9), 8(8-0), 9(8-0), admeasuring 2 Kanal 1 Marla i.e. 1240 Sq.

Yards in the name of Mr. Sandeep Garg S/o Ram Kumar Garg, situated at Mauja Nangla Gurjan Tehsil & District Faridabad.

4. The petitioner failed to maintain the financial discipline and consequently accounts were classified as Non Performing Asset (NPA) on 28.02.2016. The respondent-bank issued notice under Section 13(2) of the Act on 20.02.2017. As per the notice, there was outstanding amount of ₹1,74,69,535/-. Thereafter, a notice under Section 13(4) of the Act was issued on 08.06.2017. The petitioner was offered One Time Settlement (OTS) proposal vide letter dated 19.01.2018. The petitioner was required to pay a sum of ₹1,20,00,000/- on or before 31.03.2018. The petitioner failed to honour the terms of OTS. Being aggrieved of the recovery proceedings, the present petition has been filed.

5. On 03.05.2018, learned counsel for the petitioner produced a demand draft of ₹25 lakhs and contended that the petitioner is willing to pay another sum of ₹15 lakhs within two weeks and thereafter to pay the balance amount along with penal interest. Notice of motion was issued subject to the petitioner's depositing a sum of ₹25 lakhs within two days followed by another payment of ₹15 lakhs by 19.05.2018, status quo regarding secured assets was ordered to be maintained.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioner contended that the petitioner has deposited a sum of ₹40 lakhs during the pendency of this writ petition and he is willing to settle the outstanding dues with the bank. He restricted his prayer to the effect that the petitioner would approach the bank with a proposal for settlement and the bank be directed to decide the same within a reasonable time.

7. Learned counsel for the respondent-bank argued that the petitioner was offered an OTS proposal but he failed to honour the same

8. Without expressing any opinion on the merits of the case, the writ petition is disposed of with the following directions:-

1. The petitioner shall approach the respondent-bank with a proposal for settlement within 15 days from today. The petitioner shall deposit a sum of ₹10 lakhs alongwith the proposal.
2. The bank shall consider the proposal submitted by the petitioner sympathetically, in accordance with law, after affording an opportunity of hearing to the petitioner and by passing a speaking order.
3. The respondent-bank shall decide the representation at the earliest but not later than one month from the receipt of proposal.
4. The interim protection granted vide order dated 03.05.2018 regarding status quo of the physical possession of the secured assets shall continue for a period of two months from today. However, it is clarified that the extension of the interim protection shall not be construed as an expression on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

October 09, 2018
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Whether speaking/reasoned: Yes
Whether reportable : Yes