

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No. 11646 of 2018

Date of Decision: 09.10.2018

Satnam Singh

.....Petitioner

Versus

Syndicate Bank and others

.....Respondents

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

Present: Mr. Gagandeep Singh Sirphikhi, Advocate
for the petitioner.

Mr. Vipin Mahajan, Advocate
for the respondents.

AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notice dated 05.12.2017 (Annexure P-1) issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') and notice dated 09.02.2018 (Annexure P-2) issued under Section 13(4) of the Act.

2. The petitioner is a borrower of an education loan. Syndicate Bank, Head Office, Manipal; Syndicate Bank, Regional Office, Ludhiana and Syndicate Bank, Branch Office, Shastri Nagar, Jalandhar Road, Batala, have been arrayed as respondents No. 1 to 3 respectively in the writ petition.

3. The petitioner got admission in Beant College of Engineering and Technology, Gurdaspur, in B. Tech (Chemical). The petitioner availed an education loan from the respondent-Bank. A loan of Rs.2,50,000/- was

sanctioned. In order to secure the loan, House admeasuring 10 Marla's

comprised in Khasra No. 21R/5/2, Khewat No. 48 Khatauni No.192 H.B.No. 296 as per jamabandi 2004-05 situated in village Dhadiala Natt, Tehsil Batala, District Gurdaspur, Punjab, was mortgaged.

4. The petitioner failed to maintain the financial discipline and defaulted in repayment. The account was classified as Non-Performing Asset (NPA) on 30.01.2014. The respondent-Bank issued a notice dated 05.12.2017 under Section 13(2) of the Act. As per the notice, there was an outstanding amount of Rs. 4,19,003/- upto 31.10.2017. Thereafter, notice under Section 13(4) of the Act was issued on 09.02.2018. Aggrieved of the recovery proceedings, the present petition has been filed.

5. On 10.05.2018 notice of motion was issued and subject to petitioner's depositing Rs.50,000/- status-quo regarding physical possession of the mortgaged property was ordered to be maintained. During the pendency of the writ petition, another sum of Rs.50,000/- was deposited by the petitioner.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioner contended that though an amount of Rs.2,50,000/- was sanctioned but only Rs.1,70,350/- was actually disbursed. It was further argued that the petitioner is willing to settle the account within a reasonable period.

8. Learned counsel for the respondents-Bank rebutting the contention of the petitioner contended that an amount of Rs.1.97 lakh was disbursed. It was further stated that the petitioner failed to complete the course for which the loan was availed.

9. Without expressing any opinion on the merits of the case, the

writ petition is disposed of with the following directions.:

- (i) On or before 15.11.2018 the petitioner shall make a detailed representation to respondent-Bank mentioning the time schedule for clearing the outstanding dues. Along with the representation, an amount of Rs.50,000/- shall be deposited by the petitioner.
- (ii) On receipt of the representation, the Bank shall decide the same sympathetically in accordance with law, after providing an opportunity of hearing to the petitioner and by passing a speaking order.
- (iii) The decision on the representation shall be taken by the Bank at the earliest but not later than two months from the date of receipt of the representation.
- (iv) During the pendency of the writ petition, interim protection for maintaining the status-quo regarding physical possession of the mortgaged property was granted, the same shall continue till a decision on the representation is taken by the Bank. It is, however, clarified that extension of interim protection shall not be construed as any expression on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

09.10.2018
reema

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No