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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12495 of 2018
Decided on 24.09.2018

M/s Annan Tile Company, Mohali and others

Petitioners

Versus

Corporation Bank, Sector 35, Chandigarh

Respondent

* * *

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

Present : Mr. Sandeep Suri, Advocate for the petitioners.

Mr. Tribhuwan Singla, Advocate for the respondent.

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AVNEESH JHINGAN, J.

The present writ petition has been filed for quashing of possession notice dated 07.04.2018 (Annexure P-3) issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') and auction notice dated 20.04.2018 (Annexure P4).

2. The petitioner No.1 is a proprietorship concern. Petitioner No.2 is the proprietor of petitioner No.1. Petitioner No.3 is the guarantor. Corporation Bank, Sector 35, Chandigarh has been arrayed as respondent in the writ petition.

3. Petitioner No.1 availed Corp Vyapar Over Draft limit [CVPOD] of ₹1 crore in the year 2013 from the respondent-bank. Further, a Corp Vehicle limit (CVEHI) of ₹6.85 lakhs was also availed. In order to

secure the credit facilities, following properties were mortgaged:

1. Equitable mortgage of residential flat No.298, HIG, Sector 71, Mohali registered with the PUDA/GMADA, Mohali.
2. Hypothecation of brand new Mahindra Scorpio Gataway Costing ₹8,06,280/- (commercial use).

4. There was a default in repayment. The respondent-bank issued notice dated 15.01.2018 under Section 13(2) of the Act. As per the notice, there was an outstanding amount of ₹1,04,71,782/- against CVPOD limit and an amount of ₹3,33,609/- against CVEHI limit. The petitioners filed objections under Section 13(3-A) of the Act. The accounts were classified as Non-Performing Assets (NPA) on 31.12.2017. The respondent-bank issued possession notice dated 07.04.2018 under Section 13(4) of the Act. Thereafter, respondent-bank issued notice dated 20.04.2018 to carry out the e-auction of the mortgaged property. Aggrieved of the recovery proceedings, the present petition has been filed.

5. On 18.08.2018, Notice of motion was issued. It was ordered that on petitioners' depositing the over due amount, the auction of the residential house be not confirmed.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioners contended that the overdue amount has been cleared and the petitioners have brought a demand draft of ₹10 lakhs to show the *bona fides*. He argued that the loan account be regularized.

8. Learned counsel for the respondent-bank argued that the petitioners have not approached the bank for clearing the outstanding

dues or to regularize the accounts.

9. The demand draft of ₹10 lakhs has been handed over to the learned counsel for the respondent-bank who shall be entitled to encash the same.

10. The writ petition is disposed of with directions that the petitioners shall, within 15 days from today, approach the respondent-bank for regularization of the loan accounts or for clearing the outstanding amount. The bank shall consider the representation in accordance with law after affording an opportunity of hearing to the petitioners. The decision shall be taken by the respondent-bank at the earliest but not later than one month from receipt of the representation.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 24, 2018
pankaj baweja

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