203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 13302 of 2018
DECIDED ON: OCTOBER 17, 2018

RAJESH MALIK

.....PETITIONER

VERSUS

ZONAL MANAGER, PUNJAB & SIND BANK, KARNAL & ANR

.....RESPONDENTS

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

Present : Mr. M.K. Bhatnagar, Advocate
for the petitioner.

Mr. ABS Sidhu, Advocate
for the respondents.

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<u>AVNEESH JHINGAN, J</u>

The present writ petition has been filed seeking direction to respondents to reschedule the installments as per RBI guidelines/instructions. Further, to issue directions to respondents not to take physical possession of the residential house of the petitioner.

2. The petitioner is the borrower. Zonal Manager, Zonal Office, Haryana, Punjab and Sind Bank, Model Town, Gurdwara Building, Karnal and Manager, Punjab & Sind Bank, Pehowa Chowk, Kaithal, have been arrayed as respondents No.1 and 2 in this writ petition.

3. The petitioner availed a cash credit limit of ₹6,00,000/-.

Thereafter, he took a car loan of ₹4,66,000/-. In order to secure the credit facilities availed, he mortgaged his residential house situated at Patti Gaddar, Gali No.2, Balraj Nagar, near Aashirwad Palace Jind Road, District Kaithal and hypothecated Maruti Ritz Car bearing registration No. HR-08T-1490.

4. There was a default in repayment of loan accounts. Consequently, the loan accounts of the petitioner were declared as Non Performing Asset (NPA) on 31.03.2016. The respondent-Bank issued notice dated 01.09.2017 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act'). As per the notice, there was an outstanding amount of ₹7,33,643/- in CC limit and ₹5,28,232/- towards car loan as on 01.09.2017. Thereafter a notice dated 21.11.2017 under Section 13(4) of the act was issued to take possession of secured assets. Aggrieved of the steps taken under Section 13(4) of the Act, the petitioner filed a Scrutinization Application (SA) before the Debt Recovery Tribunal-II, Chandigarh on the ground that no notice under Section 13(2) of the Act was received. Vide order dated 28.03.2018, the SA was dismissed. Thereafter, the petitioner made a representation before the Bank dated 06.05.2018 stating that he is ready to settle both the accounts as per the RBI guidelines but the respondents did not consider the aforesaid representation and the same remained pending. Hence, the present writ petition has been filed.

5. Vide order dated 24.05.2018, notice of motion was issued and s*tatus quo* re: residential house was ordered to be maintained subject to the petitioner's depositing a sum of ₹1,00,000/- before 10th day of every month. However, bank was granted liberty to proceed as per law in case of any default by the petitioner.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioner has submitted that petitioner is regularly paying ₹1,00,000/- per month and shall continue to pay the same till the outstanding dues are cleared.

8. Learned counsel for the respondents contended that though the petitioner is making payment in compliance with the order dated 24.05.2018 but still as on date there are outstanding dues of ₹4,11,870/-

9. Without expressing any opinion on the merits of the case, the instant petition is disposed of with direction to the petitioner to pay ₹1,00,000/- regularly before 10th of every month till the outstanding dues are cleared. It is, however, clarified that in case of any default in payment of installments, the respondents shall be at liberty to proceed in accordance with law.

10. The interim protection granted by this Court vide order dated 24.05.2018 shall continue till the outstanding dues are cleared, subject to petitioner's depositing a sum of ₹1,00,000/- before 10th day of every month.

11. It is clarified that in case of default in making deposit by petitioner the Bank would be at liberty to proceed in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 17, 2018
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No