202 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CWP No. 13368 of 2018
DECIDED ON: OCTOBER 22, 2018

RAM KUMAR AND ANOTHER

.....PETITIONERS

VERSUS

BANK OF INDIA, HISAR BRANCH

.....RESPONDENT

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

Present : Mr. Jainainder Saini, Advocate
for the petitioners.

Mr. Anil Malhotra, Advocate
for the respondent

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AVNEESH JHINGAN, J

The present writ petition has been filed seeking direction to the respondent-Bank to upgrade the loan account of the petitioners as per Clause 4.2.5 of the RBI Master Circular/Guidelines (Annexure P-4) and also to regularize their loan account on payment of overdue amount.

2. Petitioners No.1 and 2 are the borrowers. Bank of India, 18-Sirsa

Road, Hisar, has been arrayed as respondent, in this writ petition.

3. Petitioner No.1 availed a cash credit limit of ₹15,00,000/- from the respondent-Bank on 12.02.2015. Petitioner No.2 also availed a term loan of ₹8,00,000/-, from the respondent-Bank on 06.06.2015. In order to secure the credit facilities availed, petitioners hypothecated their stock and equitable mortgage of House No. 476, Ward No. 16, Dhani Badwali, Tehsil and District Hisar, owned by the petitioners was created.

4. The petitioners failed to maintain the financial discipline, consequently, the loan accounts of the petitioners were classified as Non-Performing Asset (NPA) w.e.f. 13.09.2016. Thereafter, respondent-Bank initiated proceedings under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act'). Notices under Section 13(2) of the Act were issued on 05.10.2016. As per notices, there was an outstanding amount of ₹14,30,471.77/- towards cash credit limit and a sum of ₹3,24,770/- against the term loan. Thereafter, notices dated 13.02.2017 and 14.07.2017 were issued under Section 13(4) of the Act. Aggrieved of the recovery proceedings, present petition has been filed.

5. On 24.05.2018, while issuing notice of motion following order was passed:

> "*The petitioners seek regularisation of their loan account on payment of over due amount with an undertaking to pay the balance amount on regular basis.*
>
> *Notice of motion for 22.10.2018.*
>
> *Subject to petitioners' depositing a sum of Rs.5,00 lac within two weeks from today, status quo re: physical possession of the*

residential house be maintained. However, if the petitioners fail to deposit the said amount, the Bank shall be at liberty to take physical possession of the house as per law."

6. During the pendency of instant petition, petitioners deposited ₹5,00,000/-

7. Heard learned counsel for the parties.

8. Learned counsel for the petitioners submitted that the petitioners are ready and willing to pay the outstanding dues or to regularize their accounts.

9. Learned counsel for respondent-Bank argued that no such proposal has been made by the petitioners to the respondent-Bank till date. Reply filed by learned counsel for the respondent-Bank is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

10. Without expressing any opinion on the merits of the case and keeping in view the facts of the case, the present petition is disposed of with the following directions:

(i) The petitioners shall approach the respondent-Bank within one month from today with a proposal to clear their outstanding dues or to regularise their loan account. Alongwith the proposal, petitioners shall deposit a demand draft of ₹2,00,000/-.

(ii) The respondent-Bank on receipt of proposal shall decide the same in accordance with law, after affording an opportunity of hearing to the petitioners by passing a speaking order. The decision on the proposal shall be taken at the earliest but not later than one month from the receipt of proposal;

(iii) It is clarified that in case the petitioners fail either to submit their proposal within specified time or to deposit an amount of ₹2,00,000/- along- with the proposal, respondent-Bank would be at liberty to proceed in accordance with law;

(iv) At the time of issuance of notice of motion *status-quo* regarding physical possession of the residential house was ordered to be maintained. The said interim protection shall continue till the decision is taken by respondent-Bank on the proposal submitted by the petitioners;

(v) However, it is clarified that extension of interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 22, 2018
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No