IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 17629 of 2017
Decided on : 04.10.2018

M/s Shiva Traders ...... Petitioner

Versus

State Bank of Patiala ...... Respondent

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

Present : Mr. Aalok Jagga, Advocate
for the petitioner.

None for the respondent.

* * *

AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of order dated 07.10.2016 (Annexure P-4) (wrongly mentioned in writ as 12.10.2016) passed by Additional District Magistrate, Sangrur, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for brevity, 'the Act'). Further, prayer has been made for directing the respondent to upgrade the loan account of the petitioner to be standard account.

2. The petitioner is a proprietor concern. State Bank of Patiala, Branch Ahmadgarh (main), Sangrur has been arrayed as respondent in the present writ petition.

3. The petitioner was carrying business of rice sheller. The petitioner availed following financial facilities from the respondent-bank :

i) cash credit to the tune of ₹25 lakhs;

ii) term loan of ₹25 lakhs;

iii) another term loan of ₹30 lakhs.

4. In order to secure the loan, the petitioner mortgaged House No.13, Ward 16-B, Kotla Street, Dhuri, District Sangrur.

5. There was default in repayment of loans and the accounts were classified as Non Performing Asset (NPA) on 30.04.2016. The respondent-bank issued notice dated 03.06.2016 under Section 13(2) of the Act. As per notice, there were outstanding dues of ₹46,05,790/-. The respondent-bank moved an application under Section 14 of the Act. The Additional District Magistrate, Sangrur, passed an order dated 07.10.2016 for taking over the physical possession of the mortgaged property. On 09.11.2016, when the physical possession of the mortgaged property was to be taken, the petitioner deposited a sum of ₹7 lakhs and gave an undertaking that an amount of ₹5 lakhs would be paid by 21.11.2016, another sum of ₹5 lakhs by 29.11.2016 and the balance amount would be paid by 09.12.2016. A sum of ₹7lakhs was deposited by the petitioner. Out of ₹7 lakhs deposited by the petitioner, ₹4.5 lakhs was appropriated towards the cash credit account and ₹ 2.5 lakhs towards the term loan. The petitioner failed to deposit the balance amount. He moved a representation dated 27.01.2017 before the bank for reconciliation and recasting of the loan account but the same was rejected. Aggrieved of the recovery proceedings, the present writ petition has been filed.

6. Learned counsel for the petitioner while arguing the matter restricted the argument, that the petitioner would apply under One Time Settlement Scheme (OTS) and respondent-bank be directed to decide the same in a time bound manner.

7. Without expressing any opinion on the merits of the case, the writ petition is disposed of with liberty to the petitioner to apply for OTS.

In case, the petitioner makes a proposal of OTS, the respondent-bank shall decide the same expeditiously.

8. It is clarified that in case the OTS proposal of the petitioner is rejected, the petitioner may take the remedies available to it in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

October 04, 2018
anju

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No