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

CWP No.18243 of 2018
Decided on : 27.11.2018

M/s Surbhi Food Products ...... Petitioner

Versus

Punjab National Bank ...... Respondent

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Bhupinder Kumar Gupta, Advocate
for the petitioner.

Ms. Geeta Sharma, Advocate
for the respondent.

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Manjari Nehru Kaul, J.

The instant petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus for a direction to the respondent-bank to release the balance unreleased amount of ₹ 40 lakhs out of the total sanctioned amount of ₹ 200 lakhs as term loan and also to release the sanctioned amount of ₹ 75 lakhs as Cash Credit Limit to the petitioner.

2. The petitioner on 13.04.2016 availed Cash Credit Limit of ₹ 75 lakhs for working capital requirements and a term loan of ₹ 200 lakhs for renovation and expansion of the milk plant. To secure the credit facilities, the petitioner mortgaged the following properties:

> *"Hypothecation of all types of stocks of Ghee, Milk, powder, other consumable etc. and*
> *1st charge on block assets of the firm by way of hypothecation of machinery and equipment and other*

fixed assets and EM of land and building measuring 7200 sq. yards."

3. Since the petitioner failed to discharge its financial liabilities, consequently, its loan accounts were classified as Non-Performing Asset (in short 'NPA') on 31.03.2018. The respondent-bank then initiated the proceedings under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') and vide letter dated 04.05.2018 asked the petitioner for making payment of ₹ 1,54,49,749/- including interest upto 31.03.2018. Thereafter a possession notice dated 06.07.2018 was issued to the petitioner. Hence, the present writ petition has been filed.

4. Learned counsel for the petitioner submitted that the petitioner had not been allowed to utilise the cash credit limit of ₹ 75 lakhs while an amount of ₹ 1,60,00,000/- was sanctioned out of term loan of ₹ 2 crores. He further submitted that the petitioner made a payment of ₹ 70,22,361/- towards term loan to the respondent-bank, the details of which are referred to in para 9 of the writ petition.

5. Learned counsel for the respondent-bank submitted that Cash Credit Limit of ₹ 75 lakhs could not be released as the production of the unit was never commenced and the petitioner had only deposited the payment of ₹ 63,22,361/- towards the term loan.

6. After hearing learned counsel for the parties, perusing the petition and without expressing any opinion on the merits of the case, the present writ petition is disposed of with the following directions:

1. The petitioner shall approach the respondent-bank within 15 days from today by filing a detailed and comprehensive

representation for clearing the outstanding dues or to regularize the loan account.

2. The petitioner shall deposit a demand draft of ₹ 10 lakhs alongwith the representation.
3. Respondent-bank shall consider the representation submitted by the petitioner sympathetically in accordance with law, after affording an opportunity of hearing to the petitioner and pass a speaking order.
4. The decision on the representation shall be taken at the earliest by the respondent-bank but not later than one month from the receipt of such representation.
5. It is clarified that in case the petitioner fails either to submit its representation within the specified time or fails to deposit a sum of ₹ 10 lakhs, the respondent-bank would be at liberty to proceed in accordance with law.

7. The interim protection granted vide order dated 25.07.2018 regarding status quo shall continue till the decision is taken by respondent bank on the representation submitted by the petitioner. However, it is clarified that the extension of the interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(MANJARI NEHRU KAUL)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

27.11.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No