244 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 19137 of 2018
DECIDED ON: OCTOBER 11, 2018

RACHIT KAUSHAL

.....PETITIONER

VERSUS

UCO BANK

.....RESPONDENT

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

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

Ms. Neha, Advocate for Mr. KPS Dhillon, Advocate for the respondent.

*****

AVNEESH JHINGAN, J

The instant petition has been filed for quashing of notice dated 09.03.2018 (Annexure P-5) issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') and notice dated 15.05.2018 issued under Section 13(4) of the Act, by the respondent-Bank.

2. Petitioner is a borrower of loan. UCO Bank, Zonal Office, SCF No. 55-56-57, Bank Square, Sector 17-B, Chandigarh has been arrayed as respondent in this writ petition.

3. Petitioner alongwith his brother availed a home loan amounting to ₹62,00,000/- from the respondent-Bank and in this regard a tripartite agreement was executed on 16.08.2016. In order to secure the credit facility availed, petitioner mortgaged a four BHK flat bearing No. 502, Block K1 on 5^{th} Floor at Maya Garden City, Zirakpur, measuring 2550 sq ft with the respondent-Bank. The loan amount was to be repaid in 30 years, in equal Monthly Installment of ₹52,500/- .

4. There was a default in repayment of loan account and it was classified as Non Performing Asset (NPA) on 31.01.2018. The respondent-Bank issued notice dated 09.03.2018 under Section 13(2) of the Act. As per the notice, there was an outstanding amount of ₹64,99,954/- as on 21.02.2018. Thereafter, another notice dated 15.05.2018 under Section 13(4) of the Act was issued. Petitioner filed the objections under Section 13(3A) of the Act on 12.6.2018. Aggrieved of the recovery proceedings, present writ petition has been filed.

5. On 29.08.2018, learned counsel for the petitioner produced a demand draft of ₹2,00,000/- and urged that home loan would be regularized by clearing the outstanding installments. Petitioner undertook that demand draft of ₹2,00,000/- would be deposited with the Bank within seven days. It was ordered that respondent-Bank shall encash the same without prejudice to its

rights in the writ petition. Notice of motion was issued and it was ordered that parties shall maintain *status quo,* with regard to the secured assets.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioner submitted that the petitioner has deposited a demand draft amounting to ₹2,00,000/- and intends to clear the overdue amount also. He argued that petitioner would submit a proposal to the respondent-Bank for clearing the overdue amount as well as for the regularization of the loan account. He further contended that the respondent-Bank be directed to consider the same within a time bound manner.

8. Learned counsel for the respondent-Bank argued that petitioner has not made any such proposal till date, however, in case a proposal is submitted by the petitioner, the same would be considered in accordance with law.

9. Without expressing any opinion on the merits of the case, instant petition is disposed of with the following directions:-

(i) The petitioner shall approach the respondent-Bank within one month from today for the regularisation of loan account with a time schedule for clearing the overdue installments. Alongwith the proposal, petitioner shall deposit a draft of ₹2,00,000/- and in the meantime shall continue to pay the installments falling due;

(ii) The respondent-bank on receipt of proposal shall consider the same in a sympathetic manner, in accordance with law, after giving an opportunity of hearing to the petitioner and by passing a speaking order;

(iii) The interim protection granted by this Court vide order dated 29.08.2018 shall continue till 31.12.2018;

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

10. Needless to add that in case of any default by the petitioner either in depositing the amount of ₹2,00,000/- with the proposal/representation or in clearing the overdue installments as per the schedule or in paying the installments falling due; the respondent-Bank would be at liberty to proceed in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 11, 2018
sham

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