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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 20509 of 2018
Decided on 29.08.2018

Narender Singh Dhankhar

Petitioner

Versus

Oriental Bank of Commerce, MSME Cluster, Rohtak

Respondent

* * *

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

Present : Mr. Davender Arya, Advocate for
Mr. Saurabh Dalal, Advocate
for the petitioner.

* * *

AVNEESH JHINGAN, J.

The present writ petition has been filed with a prayer for quashing notice dated 20.07.2018 [Annexure P-3] (wrongly mentioned in the prayer clause as “Annexure P-1” dated 30.09.2016). Further, a prayer has been made for direction to the respondent-bank to stay the auction proceedings and to permit the petitioner to sell the mortgaged property.

2. Oriental Bank of Commerce, MSME Cluster, Rohtak has been arrayed as respondent in the writ petition.

3. The petitioner is a builder/contractor and availed cash credit facility from the respondent-bank. The limit was enhanced to ₹55 lakhs on 30.09.2016. In order to secure the enhanced cash credit limit, a shop measuring 70 sq. yards was mortgaged.

4. The petitioner defaulted in repayment of cash credit facility. The respondent-bank issued notice dated 06.04.2018 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). As per notice, there was an outstanding amount of ₹57,01,788/-. The account of the petitioner was declared as Non-Performing Asset (NPA) on 31.03.2018. The petitioner neither filed any objection under Section 13(3A) of the Act nor made any payment. A notice dated 20.07.2018 was issued under Section 13(4) of the Act. The petitioner served a legal notice on the respondent-bank stating that he has a proposed buyer of the property and the property may be released to the petitioner and he would deposit the sale proceeds after selling the property.

5. Learned counsel for the petitioner contended that the respondent-bank is going to auction the mortgaged property very soon at a very low rate. Further, the petitioner is ready to clear the defaulted amount.

6. The contentions of learned counsel for the petitioner are liable to be rejected. The petition filed lacks *bona fide.* The account was declared as NPA in March 2018. The petitioner never filed any objections to the notice issued under Section 13(2) of the Act. Apart from serving a legal notice stating that he has a proposed buyer for the property, the petitioner has not even approached the respondent-bank with any proposal to settle the account. The grievance of the petitioner that the property is being auctioned at a very low rate is not well founded. Notice of auction has not been placed on record to

show the reserve price fixed for the property. Even otherwise, if there is a willing buyer of the property he is always at the liberty to tender his bid in the auction.

7. The petitioner has made bald statement regarding clearing the defaulted amount. The same is not supported by any concrete step for repayment of defaulted cash credit facility.

8. No case is made out for interference in exercise of the writ jurisdiction by this Court under Article 226 of the Constitution of India.

9. The writ petition is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

29.08.2018
pankaj baweja

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No