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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 20516 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 09.01.2018 (Annexure P-1) regarding sale of the mortgaged property. Further, 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 is availing various cash credit and loan facilities from the respondent-bank. For securing the loan account No. 16506016000042, House No. 1160-P, Sector 2, 3, 4 part, Rohtak measuring 251.16 sq. yds. was mortgaged. The petitioner defaulted in repayment of the cash credit facility availed.

There was an outstanding amount of ₹6,13,89,767/- plus interest thereon as on 31.03.2018. The account was declared as Non-Performing Asset(NPA) on 31.03.2018.

4. The respondent-bank issued notice dated 02.11.2017 under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act'). On failure of the petitioner to repay the loan amount, sale notice dated 09.01.2018 was issued fixing the e-auction of the secured property for 17.02.2018. The petitioner approached the respondent-bank and deposited ₹10.50 lakhs in January 2018 and the proceedings were postponed. Thereafter, no amount was deposited. The respondent-bank issued another sale notice dated 17.04.2018 fixing e-auction of the mortgaged property on 18.05.2018. On 19.07.2018, the petitioner served a legal notice on the respondent-bank stating that there is a proposed buyer of the mortgaged property and the property should be released to the petitioner, he would sell the same and deposit the sale proceeds with the respondent-bank. Thereafter, the present writ petition has been filed.

5. Learned counsel for the petitioner contended that the petitioner is ready and willing to repay the defaulted amount. It was further argued that the respondent-bank is selling the mortgaged property at a very low price.

6. The contentions raised by learned counsel for the petitioners deserves rejection. The amount of ₹6,13,89,767/- plus interest thereon is outstanding as on 31.03.2018. In January 2018, only ₹10.50 lakhs was deposited just to delay the auction. Thereafter,

no amount has been deposited.

7. The petitioner has not approached the respondent-bank with any proposal or time schedule regarding repayment of the defaulted amount. The grievance of the petitioner that the respondent-bank is auctioning the property at a low rate is not well founded. If the petitioner has any willing buyer of the property he is always at liberty to participate in the auction and to give his bid. The petition filed lacks *bona fide.* The entire endeavour is to delay the proceedings rather than to settle the dispute.

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