IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20552 of 2018
Decided on : 17.11.2018

M/s SKM Panel Boxes & ors. ...... Petitioners

Versus

Authorised Officer, Syndicate Bank ...... Respondent

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

Present : Mr. Aayush Gupta, Advocate
for the petitioners.

None for the respondent.

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Manjari Nehru Kaul, J.

The instant writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking directions for setting aside the notice dated 10.01.2018 (Annexure P-1) under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as 'the Act'), possession notice dated 26.07.2018 (Annexure P-2) and to regularise the defaulting accounts of the petitioners.

2. Petitioners No.1 and 2 are the borrowers of loan while petitioners No.3 and 4 are the sureties.

3. Petitioner No.1 – firm through its partner took a loan of ₹ 24 lakhs on the monthly installment of ₹ 43,080.59. Another loan amounting to ₹ 10 lakhs was also taken on the monthly installment of ₹ 17,336.93. It also availed a Cash Credit Limit of ₹ 8 lakhs, which was further extended to ₹ 16 lakhs. In order to secure the credit facilities

availed, the petitioners mortgaged the following properties:

> *"Residential House – 259A, Ward No.12, Braham Narain Garh Marla measuring 00k-10 marla, Khewat No.20, Khatauni 20, Khasra No.8/12, 1/6 5-1 of 10/101 share i.e. 10 marla owned by Mahinder Singh.*
>
> *Owned by Smt. Sunita Devi w/o Mahinder Singh, Khweat No.23n Khatuni No.23, Khasra No.8/12 1/2 0-7 Area 00 Kanal 07 Marla situated at village Raipur Viran HB No.302, Tehsil Nariangarh, District Ambala (House No.259-A, village Raipur Viran Guru Nanak Colony, Ward No.12, Naraingarh Ambala"*

4. Since the petitioners failed to maintain financial discipline, the loan accounts of the petitioners were classified as Non Performing Asset (in short 'NPA') w.e.f. 29.12.2017. The respondent-bank then initiated the proceedings under Section 13(2) of the Act for the payment of loan amounting to ₹ 46,35,481/- along with interest upto 01.01.2018. Thereafter, a possession notice dated 26.07.2018 was issued to the petitioners. Hence, the present writ petition has been filed.

5. Vide order dated 17.08.2018, notice of motion was issued in the following terms:

> *"Manish Rana-petitioner No.4 has appeared and submitted that certain installments have fallen due. The petitioners are prepared to regularise the account and even are ready to pay three installments in advance to show their bonafides.*
>
> *Petitioner No.4 has produced a demand draft bearing No.314025 dated 13.08.2018 amounting to ₹ 5 lakhs in support of the aforesaid contention. The original demand draft has been returned to petitioner No.4 with a direction to deposit the same with the respondent-bank within a week from today. The demand draft shall be accepted by the respondent-bank without prejudice to its rights. Photocopy of the same is taken on*

record.

Notice of motion to the respondents for 14.09.2018.

Notice re: stay as well.

Process dasti only.

In the meantime, status quo shall be maintained by the parties till the next date of hearing."

6. During the pendency of the present writ petition, the petitioners have deposited a sum of ₹1,50,000/- on 13.09.2018 and another sum of ₹ 2,00,000/- on 16.11.2018 respectively.

7. Learned counsel for the petitioners submitted that the petitioners are ready and willing to clear the outstanding dues for regularizing their accounts within a reasonable period and restricted his prayer to the effect that in order to clear outstanding dues or to regularise the accounts, the petitioners would approach the respondent-Bank with a proposal and the respondent-Bank be directed to decide the same in a time bound manner.

8. Heard learned counsel for the petitioners and perused the paper book with their assistance.

9. Without expressing any opinion on the merits of the case and keeping in view the facts and circumstances of the case, we dispose of the present petition with the following directions:

1. The petitioners shall approach the respondent within one month from today with a proposal for clearing the outstanding dues or to regularize the loan accounts.
2. The petitioners shall deposit a demand draft of ₹ 1 lakh alongwith the proposal.
3. Respondent -bank shall consider the proposal submitted by

the petitioners sympathetically in accordance with law, after affording an opportunity of hearing to the petitioners and pass a speaking order.

4. The decision on the proposal shall be taken at the earliest by the respondent-bank but not later than two months from the receipt of such proposal.
5. It is clarified that in case the petitioners fail to submit their proposal within the specified time or fail to deposit a sum of ₹ 1 lakh within the specified time, the respondent -bank would be at liberty to proceed in accordance with law.

10. The interim protection granted vide order dated 17.08.2018 regarding status quo shall continue till the decision is taken by respondent bank on the proposal submitted by the petitioners. 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.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

17.11.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No