IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21136 of 2018
Decided on : 12.11.2018

Jagtar Singh & ors. ...... Petitioners

Versus

UCO Bank and another ...... Respondents

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

Present : Mr. Shubham Kaushik, Advocate
for the petitioners.

Mr. Varun Verma, Advocate
for respondent No.1.

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<u>Manjari Nehru Kaul, J.</u>

The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking directions for setting aside the impugned possession notice dated 09.08.2018 (Annexure P-3) and also for directions to the respondent-bank for rendition of accounts and thereafter to re-calculate the loan amount allegedly due in the loan account of the petitioners.

2. Petitioners No.1 and 3 availed of the loan facility to the tune of ₹ 7 lakhs each from the respondent-bank for the purpose of purchase a piece of land in the village, which was sanctioned in the name of petitioners No.1 and 3 against the security of assets i.e. a commercial shop.

3. 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. 31.03.2015. 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 (hereinafter referred as 'the Act') and vide letter dated 01.05.2015 asked the petitioners to pay a sum of ₹ 3,93,229/- inclusive of interest upto 31.12.2014. Thereafter a possession notice dated 09.08.2018 was issued to the petitioners.

4. Aggrieved by the recovery proceedings, the present writ petition has thus been filed.

5. Vide order dated 27.08.2018, notice of motion was issued in the following terms:

> *"In pursuance to the order dated August 23, 2018, learned counsel for the petitioners has produced a demand draft bearing No.555217 dated 24.08.2018, in the sum of ` 2.00 lakh, in Court today. The photocopy of the same is taken on record, however, the demand draft in original has been returned to the learned counsel for the petitioners, who undertakes that the said demand draft shall be deposited with the respondent-Bank within three days. The Bank shall be entitled to encash the same without prejudice to their rights in this petition.*
>
> *Notice of motion to the respondents for 08.10.2018.*
>
> *Notice regarding stay as well.*
>
> *Process dasti only.*
>
> *At this stage, Ms. Daisy Sharma, Advocate for Mr.Shekher Verma, Advocate, who is present in Court, accepts notice on behalf of respondent No.1 and prays for time to file reply.*
>
> *Let a copy of the complete paper book be supplied to her during the course of the day.*
>
> *In the meantime, status quo be maintained."*

6. Learned counsel for the petitioners submitted that the petitioners are ready and willing to clear the outstanding dues or to regularize their account within a reasonable period.

7. Learned counsel for respondent No.1-bank has filed reply in Court today, which is taken on record subject to all just exceptions. Office to tag the same at appropriate place. Learned counsel for the respondent-bank has prayed for dismissal of the writ petition qua the bank.

8. Heard learned counsel for the parties 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 respondent No.1 within one month from today with a proposal for clearing the outstanding dues or to regularize the loan account.
2. Each of the petitioner shall deposit a demand draft of ₹ 1.5 lakhs alongwith the proposal.
3. Respondent No.1-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 either to submit

their proposal within the specified time or fail to deposit a sum of ₹ 1.5 lakhs each, the respondent -bank would be at liberty to proceed in accordance with law.

10. The interim protection granted vide order dated 27.08.2018 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.

(MANJARI NEHRU KAUL)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

12.11.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No