251 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 21186 of 2018
DECIDED ON: OCTOBER 23, 2018

M/S GOBIND TRADING COMPANY AND OTHERS

.....PETITIONERS

VERSUS

STATE BANK OF INDIA, CHANDIGARH AND ANOTHER

.....RESPONDENTS

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

Present : Mr. Jai Bhagwan, Advocate
for the petitioners.

Mr. Pradeep, Advocate for
Mr. Gaurav Goyal, Advocate
for the respondents.

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AVNEESH JHINGAN, J

The present writ petition has been filed seeking quashing of impugned order dated 23.04.2018 (Annexure P-4) issued by the District Magistrate, Rupnagar under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. The petitioner-company is a partnership firm. The State Bank of India, Sector 17-A, Chandigarh and State Bank of India, Branch office at

Chamkaur Sahib, District Ropar, have been arrayed as respondents No.1 and 2 respectively in this writ petition.

3. The petitioner-company availed a cash credit limit of ₹5,00,000/- from the respondent-Bank. Subsequently, the said limit was enhanced to ₹15,00,000/-. In order to secure the credit facility availed, petitioner-company mortgaged a residential house measuring 303 Sq. Yards, Ward No. 9, Near Gurdwara Damdama Sahib, Chamkaur Sahib.

4. The petitioner-company failed to maintain the financial discipline. Consequently, the respondent-Bank issued notice dated 02.11.2017 under Section 13(2) of the Act. As per notice, there was an outstanding amount of ₹15,54,851/- as on 28.10.2017. Thereafter, the respondent-Bank filed an application under Section 14 of the Act before the District Magistrate, Rupnagar. The said application was allowed vide order dated 23.04.2018 and it was ordered that the police assistance be provided to the Bank for taking over the physical possession of the mortgaged property. The petitioner-company approached the respondent-Bank vide letter dated 17.05.2018 to clear the outstanding amount or to regulraise the account. Aggrieved of the recovery proceedings, present petition has been filed.

5. On 04.09.2018, while issuing notice of motion, following order was passed:

> *"Learned counsel for the petitioners has produced a Bankers' cheque bearing No.001466 dated 03.09.2018 amounting to ₹2 lakhs in terms of order dated 30.08.2018, to show the bondafides of the petitioners. It was urged that the petitioners are prepared to discharge the outstanding dues. The original cheque has been returned to the learned counsel for the petitioners with a*

direction to deposit the same with the respondent-bank within a week from today. It is, however, clarified that the bank shall accept the Bankers' cheque without prejudice to its rights in this petition. The photocopy of the same is taken on record.

Notice of motion for 23.10.2018.

Notice regarding stay as well.

Process dasti only.

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

At this stage, Mr.Gaurav Goel, Advocate, who is present in Court, accepts notice on behalf of the respondents. Two copies of paperbook be handed over to him during the course of the day. He prays for time to file reply."

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioners submitted that the petitioners would approach the respondent-Bank with a proposal to clear the over due/outstanding amount and the respondent-Bank be directed to consider the same in a time bound manner.

8. Learned counsel for the respondent-Bank submitted that in case a reasonable proposal is made by the petitioners, the respondent-bank will consider the same.

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

(i) The petitioners shall approach respondent-Bank within one month from today with a proposal to clear their outstanding dues or to regularise their loan account. Alongwith the proposal, the petitioners shall also deposit a demand draft of ₹2,00,000/-.

(ii) The respondent-Bank on receipt of proposal shall decide the same in accordance with law, after affording an opportunity of hearing to the petitioners by passing a speaking order. The decision on the proposal shall be taken at the earliest but not later than one month from the receipt of proposal;

(iii) It is clarified that in case the petitioners fail either to submit their proposal within specified time or to deposit an amount of ₹2,00,000/- along- with the proposal, respondent-Bank shall be at liberty to proceed in accordance with law;

(iv) At the time of issuance of notice of motion *status-quo* regarding physical possession of the residential house was ordered to be maintained. The said interim protection shall continue till the decision is taken by respondent-Bank on the proposal submitted by the petitioners;

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

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 23, 2018
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Whether speaking/reasoned: ***Yes / No***
Whether reportable : ***Yes / No***