225 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CWP No. 23742 of 2017
DECIDED ON: OCTOBER 23, 2018

M/S GURU NANAK HARDWARE & PLYWOOD STORE

.....PETITIONER

VERSUS

THE AUTHORIZED OFFICER/CHIEF MANAGER, STATE BANK OF INDIA, GT. ROAD, BRANCH MOGA AND ANOTHER

.....RESPONDENTS

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

Present : Mr. Sahil Khunger, Advocate
for the petitioner.

Mr. S.S. Pathania, Advocate
for the respondents.

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<u>AVNEESH JHINGAN, J</u>

The present writ petition has been filed seeking direction to the respondent-Bank to settle the loan account of the petitioner. Further prayer is to quash the notice dated 19.08.2017 (Annexure P-2) issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act').

2. The petitioner is a proprietorship concern. The Authorized Officer/Chief Manager, State Bank of India, G.T. Road, Branch Moga and The

Branch Manager, State Bank of India, G.T. Road, Branch, Moga, have been arrayed as respondents No.1 and 2 respectively in this writ petition.

3. The petitioner availed a cash credit limit of ₹7,00,000/- from the respondent-Bank. In order to secure the credit facility availed, the petitioner mortgaged the following property:

> "***Commercial Building measuring 1 marlas 7-1/2, Sarsai Jadid being 16/1/2/4104 share of land 22 kanal 16 marlas being khasra No. 412 (22-16), Khewat No. 2389, Khatauni No. 2996 as per jamabandi No. 2007-08 situated at Moga Mehla Singh, Tehsil and District Moga."***

4. The petitioner failed to maintain the financial discipline, consequently, the loan account was classified as Non-Performing Asset (NPA). Thereafter, the respondent-Bank issued a notice dated 13.12.2016 under Section 13(2) of the Act. As per notice, there was an outstanding amount of ₹7,19,086/- as on 07.11.2016. Thereafter, the respondent-Bank issued notice dated 19.08.2017 under Section 13(4) of the Act. The respondent-Bank moved an application under Section 14 of the Act before the District Magistrate, Moga for taking the physical possession of the mortgaged property. The petitioner being aggrieved, approached the Debts Recovery Tribunal, Chandigarh (for short 'DRT') for seeking interim protection. During the pendency of the matter before the DRT, respondent-Bank was continuing with the proceedings to take over the physical possession of the mortgaged property. Hence, the present petition has been filed.

5. On 13.10.2017, while issuing notice of motion, the following order was passed:

"Learned counsel for the petitioner submitted that petitioner had CC account with the respondent-bank. Due to adverse business conditions, there was default in payment. As per notice issued under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act"), the total amount due has been shown as ₹7,49,433/-. The amount is secured with mortgage of a commercial building owned by the petitioner at Moga. Though the petitioner has challenged the aforesaid notice before the Debts Recovery Tribunal-III, however, the matter is not being taken up, as the Presiding Officer is not holding Court because of his health problem.

Learned counsel further submitted that the petitioner is ready and willing to pay the amount to the bank. A sum of ₹ 2 lacs will be paid within a period of one week and the balance amount thereafter.

Notice of motion for 10.11.2017.

Process dasti only.

Subject to petitioner's depositing ₹ 2 lacs within a period of one week from today, dispossession from the property mortgaged shall remain stayed.

6. During the pendency of the present writ petition, another sum of ₹1,00,000/- was deposited by the petitioner.

7. Heard learned counsel for the parties.

8. Learned counsel for the petitioner contended that on 20.09.2018, the petitioner has submitted a "One Time Settlement" (OTS) proposal to clear the outstanding dues and alongwith the proposal of 'OTS' the petitioner also deposited a sum of ₹31,000/-

9. Learned counsel for the respondent-Bank has submitted that the

proposal of the petitioner is under active consideration.

10. 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 respondent-Bank shall decide the proposal of 'OTS' submitted by the petitioner in accordance with law, after affording an opportunity of hearing to the petitioner by passing a speaking order. The decision on the proposal shall be taken by 30.11.2018;

(ii) The interim protection granted by this Court vide order dated 13.10.2017 shall continue till the decision is taken by respondent-Bank on the proposal submitted by the petitioner;

(iii) 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