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

**CWP No. 25304 of 2017
DECIDED ON: OCTOBER 23, 2018**

M/S SINGH COLLECTION, MOGA

.....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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AVNEESH JHINGAN, J

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 ₹18,00,000/- and term loan of ₹5,00,000/- from the respondent-Bank. In order to secure the credit facilities 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 accounts were classified as Non-Performing Asset (NPA). Thereafter, the respondent-Bank issued a notice dated 23.05.2017 under Section 13(2) of the Act. As per the notice, there was an outstanding amount of ₹30,57,816/- as on 22.05.2017. 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, the 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 10.11.2017, while issuing notice of motion, the following order was passed:

> "*Learned counsel for the petitioner submitted that petitioner has two loan accounts with the Bank, one is the cash credit limit of ₹ 18.00 lacs and another one is term loan of ₹ 5.00 lacs. The Bank*

> *declared the account as NPA as there was some amount excess withdrawn in cash credit account. The balance as on 31.5.2017 was ₹ 18,22,219.75. Petitioner is still carrying on his business. Petitioner will pay the overdrawn amount in the cash credit limit and any overdue installments of the term loan account by 30.11.2017.*
>
> *Notice of motion for 11.12.2017.*
>
> *Mr. S.S. Pathania, Advocate, who is appearing in CWP No. 23742 of 2017, filed by the petitioner, accepts notice on behalf of respondents.*
>
> *Subject to petitioner's depositing the amount as mentioned above, dispossession from the property in dispute shall remain stayed."*

6. During the pendency of the present writ petition, the petitioner deposited a sum of ₹1,50,000/- in the cash credit account and a sum of ₹66,000/- in term loan account on 30.11.2017 and 29.11.2017 respectively.

7. Heard learned counsel for the parties.

8. Learned counsel for the petitioner has submitted that over due amounts in both the accounts have been cleared and the petitioner restricted his prayer to the effect that in order to clear any other outstanding dues or to regularise the accounts, the petitioner would approach the respondent-Bank with a proposal and the respondent-Bank be directed to decide the same in a time bound manner.

9. Learned counsel for the respondent-Bank has submitted that in case a reasonable proposal is made by the petitioner, the respondent-Bank shall consider the same.

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 petitioner shall approach the respondent-Bank by making a representation within 15 days from today;

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

(iii) It is clarified that in case the petitioner fails to submit representation within specified time, respondent-Bank shall be at liberty to proceed in accordance with law;

(iv) The interim protection granted by this Court vide order dated 10.11.2017 shall continue till the decision is taken by respondent-Bank on the representation submitted by the petitioner;

(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