IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24251 of 2018
Decided on : 26.11.2018

Harbans Singh & anr. ...... Petitioners

Versus

Union Bank of India ...... Respondent

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

Present : Mr. Sumit Singh Arora, Advocate
for the petitioners.

Mr. Iqbal Mohammed, Advocate
for the respondent.

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Manjari Nehru Kaul, J.

The instant petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus for a direction to the respondent-bank to consider One Time Settlement (OTS) proposal dated 03.09.2018 (Annexure P-4) submitted by the petitioners.

2. The petitioners had applied for a term loan of ₹ 9 lakhs in April, 2013 from the respondent-bank for expansion of their business. To secure the credit facilities, the petitioners mortgaged the following property:

> *"Residential open plot bearing No.22 out of khasra No.3//25/2/2 measuring 241 sq. yards situated in village Khariabad, District Amritsar"*

3. Since the petitioners failed to discharge their financial liabilities, consequently, their loan account was classified as Non-Performing Asset (in short 'NPA') on 28.02.2018. The respondent-bank then initiated proceedings under Section 13(2) of the Securitisation and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') and vide letter dated 22.03.2018 asked the petitioners to deposit a sum of ₹ 6,39,458.80 including interest upto 28.02.2018. Thereafter, possession notice dated 21.04.2018 was issued to the petitioners. Hence, the present writ petition has been filed.

4. Learned counsel for the petitioners submitted that the petitioners had made a proposal for OTS along with a cheque of ₹ 1,60,000/- to the respondent-bank but it did not consider the same. He further submitted that the petitioners are ready and willing to clear the outstanding dues or to regularize their account.

5. After hearing learned counsel for the parties, perusing the petition and without expressing any opinion on the merits of the case, the present writ petition is disposed of with the following directions:

1. The petitioners shall approach the respondent-bank within one month from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. The petitioners shall deposit a demand draft of ₹ 2 lakhs alongwith the representation.
3. Respondent-bank shall consider the representation 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 representation shall be taken at the earliest by the respondent-bank but not later than two months from the receipt of such representation.

5. It is clarified that in case the petitioners fail either to submit their representation within the specified time or fail to deposit a sum of ₹ 2 lakhs, the respondent-bank would be at liberty to proceed in accordance with law.

6. Status quo shall be maintained till a decision is taken by the respondent-bank on the representation submitted by the petitioners. However, it is clarified that 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

26.11.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No