IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24655 of 2018
Decided on : 05.12.2018

Ankur Behl & anr. ...... Petitioners

Versus

UCO Bank and others ...... Respondents

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

Present : Mr. P.K.Rohilla, Advocate
for the petitioners.

Mr. Shekhar Verma, Advocate
for the respondents.

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Manjari Nehru Kaul, J.

The petitioners have approached this Court under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the notice dated 07.03.2018 (Annexure P-1) and order dated 15.09.2018 (Annexure P-3) issued by the respondent -Bank for taking physical possession of the residential house of petitioner No.2.

2. The petitioner No.1, who is a businessman, applied for Cash Credit Limit of ₹ 20 lakhs for expanding his business in the year 2015. Petitioner No.2 was the guarantor of the said loan. The Cash Credit Limit was sanctioned by the respondent-bank against the following property owned by petitioner No.2:

> *"Plot No.44 bearing Municipal Unit No.B-4/44-A measuring 267 sq. yards comprised in Khasra No.868 situated at Kalindi Colony, Yamuna Nagar."*

3. As per petitioner No.1, he had paid an amount of ₹ 12,63,000/-

till 17.07.2018 details of which are referred to in para 2 of the writ petition. Due to losses in his business, he could not discharge his financial liabilities on time and as a result of which, his account was declared as Non-Performing Asset (in short 'NPA') by the bank. Thereafter, the respondent-bank initiated the proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The respondent-bank issued the possession notice dated 07.03.2018 under Section 13(4) of the Act to the petitioners. Hence, the present writ petition.

4. On 26.09.2018, notice of motion was issued in the following terms by this Court:

> *"Learned counsel for the petitioners inter alia submitted that the Cash Credit Limit (in short 'CC Limit') of ` 20.00 lakh was sanctioned by the respondent-Bank. According to the learned counsel for the petitioners, an amount of ` 12,63,000/- has been paid from 06th March, 2018 till 17th July, 2018. It was urged that after reducing the aforesaid amount from the outstanding liability, an amount of ` 9,42,385.50, is due as per the Statement of Account (Annexure P-4) of the respondent-Bank. It was further urged that the petitioners are prepared to discharge the outstanding liability in due course.*
>
> *Learned counsel for the petitioners submitted that in order to show the bona fides of the petitioners, an amount of ` 1.00 lakh shall be deposited with the respondent-Bank within a period of three days.*
>
> *Notice of motion to the respondents for 03.10.2018.*
>
> *Notice regarding stay as well.*
>
> *Process dasti only.*
>
> *In the meantime, status quo be maintained."*

5. Learned counsel for the petitioners submitted that petitioner No.1 has deposited an amount of ₹ 1 lakh on 04.12.2018 with the

respondent-bank and produced the photocopy of the receipt dated 04.12.2018 in Court, which is taken on record. Learned counsel for the petitioners further submitted that petitioner No.1 is ready and willing to clear the outstanding dues or to regularize his account within a reasonable period in a time bound manner.

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

6. Heard learned counsel for the parties and perused the paper book with their assistance.

7. 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 a period of 15 days from today with a proposal for clearing the outstanding dues or to regularize the loan account.
2. The petitioners shall deposit a demand draft of ₹ 2 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 one month 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 ₹ 2 lakhs, the respondent -bank would be at liberty to proceed in accordance with law.

8. The interim protection granted vide order dated 26.09.2018 regarding status quo shall continue till a 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

05.12.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No