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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24981 of 2018
Decided on 28.09.2018

Gurdeep Chhabra

Petitioner

Versus

Punjab and Sind Bank, Branch Office Cricular Road, Abohar

Respondent

* * *

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

Present : Mr. R.S. Bhatia, Advocate
for the petitioner.

* * *

AVNEESH JHINGAN, J.

The present petition has been filed seeking direction to the respondent-bank to upgrade the loan account as the entire overdues have been paid.

2. Petitioner is a sole proprietor of a concern namely M/s Shradha Automobiles. Punjab and Sind Bank, Branch Office Circular Road, Abohar has been arrayed as respondent in this writ petition.

3. Petitioner availed an overdraft limit against property (ODP) of ₹40 lakhs on 07.12.2010 and other loan against property (LAP) of ₹15 lakhs, which was sanctioned on 18.12.2014. LAP was repayable in 84 equal monthly installments (EMI's) of ₹26,882/- each.

4. Wife of the petitioner suffered from breast cancer and she was being treated at Fortis Hospital, Mohali but later on cancer spread over other parts of her body. Due to expenses incurred on

treatment of his wife, the petitioner failed to maintain financial discipline in the loan accounts.

5. Respondent-bank issued two notices dated 03.06.2016 informing the petitioner that there are overdues of ₹3.43 lakhs and ₹1.68 lakhs plus interest in LAP account and ODP account. Both the accounts were classified as Non-Performing Assets (NPAs). Notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') was issued on 10.09.2015. Thereafter, possession notice dated 17.12.2016 was published in the newspaper. Petitioner even after receiving the demand notice, deposited a sum of ₹19,25,484/- in ODP account and ₹9,60,148/- in LAP account between 06.02.2016 to 31.08.2018. Meanwhile, respondent-bank moved an application under Section 14 of the Act before the District Magistrate. Petitioner approached the respondent-bank vide representation dated 16.08.2018. The respondent-bank was informed that entire overdues have been paid and a request was made that his wife is an employee of United India Insurance Co. Ltd. and is working as Senior Assistant, she is going to retire in May, 2019 and immediately on receiving her retiral benefits, the entire payment shall be made.

6. During the course of arguments, learned counsel for the petitioner restricted his prayer to the effect that respondent-bank be directed to decide the rerpresentation dated 16.08.2018 in a time bound manner. He undertakes that in the meanwhile, the petitioner will continue to pay the due installments.

7. For the order proposed to be passed, it is not considered

appropriate to issue notice to the respondent-bank as it will only delay the matter. The writ petition is disposed of with the following directions to the respondent-bank:

(i) ***The respondent-bank shall sympathetically decide the representation dated 16.08.2018 (Annexure P-9) in accordance with law by passing a speaking order after affording an opportunity of hearing to the petitioner;***

(ii) ***The respondent-bank shall decide the matter at the earliest but not later than two months from the receipt of the certified copy of this order; and***

(iii) ***Subject to petitioner's depositing ₹2 lakhs within 15 days from today and on his regularly depositing the installments due, status-quo regarding physical possession of the mortgaged property shall be maintained by the parties.***

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 28, 2018
pankaj baweja

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No