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

CWP No. 27667 of 2017
Decided on : 09.10.2018

M/s Tamanna Agro Industries and another ...... Petitioners

Versus

Canara Bank ...... Respondent

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

Present : Mr. Ferry Sofat, Advocate
for the petitioners.

Mr. D.K.Sharma, Advocate for
Mr. S.S.Kamboj, Advocate
for the respondent.

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AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notice dated 07.02.2017 (Annexure P-10) issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act') and auction notice dated 09.11.2017 (Annexure P-11).

2. The petitioner No.1 is a proprietorship concern and petitioner No.2 is the proprietor. Canara Bank, Rejangala Chowk, Sighana Road, Narnaul has been arrayed as respondent in the present writ petition.

3. The petitioners availed a cash credit limit to the tune of ₹10 lakhs from the respondent-bank. The said limit was enhanced to ₹30 lakhs. In order to secure the credit facility, the property consisting of 10/284 share in agriculture land bearing Khewat No.27, Khatoni No.27, Mustetil and Killa Nos.50//16/2/(6-4), 17(8-0); Kitats 2 area measuring 14

Kanal 4 Marla wherein share in the land comes to 10 Marla situated in the revenue estate of village Nasibpur, Tehsil Narnaul was mortgaged with the bank.

4. The petitioners were not able to maintain the financial discipline, hence, the account was classified as Non Performing Asset (NPA) on 29.12.2014. The bank issued notice under Section 13(2) of the Act on 12.04.2016. As per the notice, there was outstanding amount of ₹ 38,66,762/- as on 31.03.2016. The petitioners filed their objections under Section 13(3-A) of the Act on 23.05.2016. The respondent-bank without considering the objections issued notice under Section 13(4) of the Act dated 07.02.2017. Thereafter, the respondent-bank issued auction notice dated 09.11.2017 fixing the e-auction for 11.12.2017. Aggrieved of non-consideration of objections filed under Section 13(3-A) of the Act and of the recovery proceedings initiated by the bank, the present petition has been filed.

4. Heard learned counsel for the parties.

5. Learned counsel for the petitioners argued that the property mortgaged with the bank is an agriculture land. As per Section 31(i) of the Act, provisions of the Act shall not apply to any security interest created in agriculture land. He argued that the bank in notices issued under Sections 13(2) and 13(4) of the Act itself described the mortgaged property as an agricultural land. The grievance raised is that a specific objection with regard to non-application of the Act to agricultural land was raised by the petitioners in their objections filed under Section 13(3-A) of the Act but the same has not been decided by the bank.

5. Learned counsel appearing for the bank could not dispute the

fact that the objections filed by the petitioners were not decided by the bank.

Section 31(i) of the Act is reproduced below:-

> ***Provisions of this Act not to apply in certain cases.***_ *The provisions of this Act shall not apply to--*
>
> *XX XX XX*
>
> *(i) any security interest created in agricultural land.*

6. Without expressing any opinion on the merits of the case, considering the facts of the present case that a specific objection was raised by the petitioners under Section 13(3-A) of the Act regarding mortgaged property to be an agricultural land and more so, the bank itself in its notices has described the property as agricultural land, the writ petition is disposed of with a direction to the respondent-bank to dispose of the objections filed by the petitioners under Section 13(3-A) of the Act in accordance with law, after providing an opportunity of hearing to the petitioners and by passing a speaking order. The decision shall be taken at the earliest but not later than one month from the receipt of the certified copy of this order. It is clarified that it shall be open for the bank to proceed further in the matter after the decision is taken on the objections filed by the petitioners in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

October 09, 2018
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Whether speaking/reasoned: Yes
Whether reportable : Yes