

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.6252 of 2018
Decided on : 19.11.2018

M/s Shri Kanhiya Lal Shiksha Samiti

..... Petitioner

Versus

Canara Bank

..... Respondent

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

Present : Mr. Jai Singh Yadav, Advocate
for the petitioner.

Mr. Arvind Rajotia, Advocate
for the respondent.

Manjari Nehru Kaul, J.

The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking directions for quashing the notice dated 26.02.2018 (Annexure P-2) and auction notice dated 23.02.2018 (Annexure P-3) issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as 'the Act').

2. Petitioner -firm had taken a loan of ₹ 8.5 lakhs on 16.10.2009 @ 15.95% interest to run an educational institute, which was to be returned within a period of 60 months. According to the petitioner, he repaid an amount of ₹ 8,75,455/- to the respondent – bank towards loan account as is clear from the bank statement dated 05.03.2018 (Annexure P-1). The respondent-bank had raised a demand of ₹10,15,433/- against the petitioner on 16.02.2018.

3. Since the petitioner failed to maintain financial discipline, the

respondent-bank issued a notice dated 26.02.2018 (Annexure P-2) under Section 13(4) of the Act directing the petitioner to discharge its outstanding liability. As the petitioner has failed to discharge its liability, the respondent-bank issued an auction notice dated 23.02.2018 (Annexure P-3) for auctioning of the secured asset. Hence, the present petition has been filed.

5. Vide order dated 14.03.2018, notice of motion was issued in the following terms:

“The petitioner undertakes to pay the entire loan amount within a reasonable period.

Notice of motion for 03.04.2018.

Subject to the petitioner's depositing ₹ 2 lakhs within two weeks which the bank may accept without prejudice to its rights, status-quo re: possession of the secured assets be maintained.”

6. Learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize its account within a reasonable period and restricted his prayer to the effect that in order to clear 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.

7. 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.

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

9. 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 one month from today with a proposal for clearing the outstanding dues or to regularize the loan account.
2. The petitioner shall deposit a demand draft of ₹ 2 lakhs alongwith the proposal.
3. Respondent-bank shall consider the proposal submitted by the petitioner sympathetically in accordance with law, after affording an opportunity of hearing to the petitioner 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 two months from the receipt of such proposal.
5. It is clarified that in case the petitioner fails either to submit its proposal within the specified time or fails to deposit a sum of ₹ 2 lakhs, the respondent-bank would be at liberty to proceed in accordance with law.

10. The interim protection granted vide order dated 14.03.2018 regarding status quo shall continue till the decision is taken by respondent bank on the proposal submitted by the petitioner. 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

19.11.2018

sonia

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No