244 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9082 of 2018
DECIDED ON: OCTOBER 23, 2018

DIYAN SINGH

.....PETITIONER

VERSUS

STATE BANK OF INDIA, LUDHIANA BRANCH & OTHERS

.....RESPONDENTS

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

Present : Ms. Monika Thakur, Advocate, for the petitioner.

Mr. Umang Khosla, Advocate, for respondents No.1 to 3.

Mr. J.S. Mann, Advocate, for respondent No.4.

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AVNEESH JHINGAN, J

The present writ petition has been filed seeking quashing of notices dated 20.08.2015 and 23.12.2015 [Annexure P-2 (colly)] issued under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') and order dated 10.05.2017 (Annexure P-7) passed by the Additional District Magistrate, Ludhiana.

2. The petitioner is a borrower of loan. The State Bank of India, State Bank Bhawan, Corporate Centre, Madam Cama Road, Mumbai 400021; The Authorized Officer, State Bank of India, Brahmpuri Branch, Purana Bazar, Ludhiana; The Chief Manager, State Bank of India, Brahmpuri Branch, Purana

Bazar, Ludhiana; ARCIL/Arms-A division of Assets Reconstruction Company (India) Ltd. A-668, 3rd Floor, New Lajpat Nagar, Pakhowal Road, Near Corporation Bank, Ludhiana and The District Magistrate, Ludhiana, have been arrayed as respondents No.1 to 5 respectively in this writ petition.

3. The petitioner availed two housing loans of ₹2,00,000/- and ₹91,000/- from the respondent-Bank. In order to secure the credit facilities availed, petitioner mortgaged a residential house comprised in khata No.621/690, 626 Khasra No. 841/341, 848/355, H.B. No. 166, situated at Taraf Gelewal, District Ludhiana.

4. The petitioner failed to maintain the financial discipline, consequently, the accounts were declared as Non-Performing Asset (NPA). The respondents No.2 and 3 vide agreement dated 08.04.2015 transferred the NPA accounts of the petitioner to respondent No.4. Thereafter, respondent No.4 issued notices dated 20.08.2015 and 23.12.2015 under Section 13(2) of the Act. As per notices, there were outstanding amount of ₹1,55,421/29 and ₹3,48,027/57. The petitioner filed objections to the aforesaid notices. Thereafter, the respondent No.4 filed an application under Section 14 of the Act before the District Magistrate, Ludhiana. The said application was allowed vide order dated 10.05.2017 and it was ordered that police assistance be provided for taking over the physical possession of the mortgaged property. Aggrieved of the recovery proceedings, present petition has been filed.

5. On 17.04.2018, while issuing notice of motion, following order was passed:

> *"Notice of motion for 28.05.2018.*
>
> *Meanwhile, subject to the petitioner's depositing a sum of*

Rs.1.0 lac within one week from today, his dispossession from the residential house shall remain stayed. Respondent Nos.1 & 4 are directed to provide complete statement of account to the petitioner meanwhile.

Let a copy of this order be given dasti under the signatures of Bench Secretary to learned counsel for the petitioner during the course of day."

6. During the pendency of the present petition, a sum of ₹1,50,000/- has been deposited by the petitioner.

7. Heard learned counsel for the parties.

8. Learned counsel for the petitioner submitted that the petitioner would approach the respondent No.4 with a proposal to clear the over due amounts and the respondent-Bank be directed to consider the same in a time bound manner.

9. Learned counsel for the respondent No.4 submitted that in case a reasonable proposal is made by the petitioner, the respondent-bank will consider the same. Learned counsel for respondent No.4 also placed on record the statements of accounts, in Court today. The same are taken on record, subject to all just exceptions. Office to tag the same at the appropriate place.

10. Without expressing any opinion on the merits of the case and keeping in view the facts of the case, the present petition is disposed of with the following directions:

(i) The petitioner shall approach respondent No.4 within one month from today with a proposal to clear his outstanding dues. Alongwith the proposal, the petitioner shall also deposit a demand draft of ₹1,00,000/-.

(ii) The respondent No.4 on receipt of proposal shall decide the same in accordance with law, after affording an opportunity of hearing to the petitioner by passing a speaking order. The decision on the proposal shall be taken at the earliest but not later than one month from the receipt of proposal;

(iii) It is clarified that in case the petitioner fails either to submit proposal within specified time or to deposit an amount of ₹1,00,000/- along- with the proposal, respondent No.4 shall be at liberty to proceed in accordance with law;

(iv) At the time of issuance of notice of motion *status-quo* regarding physical possession of the residential house was ordered to be maintained. The said interim protection shall continue till the decision is taken by respondent No.4 on the proposal submitted by the petitioner;

(v) However, it is clarified that extension of interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 23, 2018
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No