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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 12975/2018

CDG IRON & STEEL PVT. LTD. ..... Petitioner

Through: Mr Anil Goel, Advocate.

versus

STANDARD CHARTERED BANK & ORS. ..... Respondents

Through: Mr H. S. Parihar and Mr Kuldeep S. Parihar, Advocates for RBI.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 03.12.2018

CM No.50301/2018

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition, *inter alia*, praying as under:-

> "a. the respondents may be directed to decide the Representation dated 17.10.2018 of the Petitioner immediately by affording a reasonable opportunity of personal hearing to the petitioner and by passing a speaking order.
>
> b. the respondent no. 1 may be directed to release the title documents of the petitioner in respect of the said property i.e. B-21, Satyawati Colony, Ashok Vihar, Phase-3, New Delhi-110052 immediately;
>
> c. the respondent no. 1 may be directed to refund the excess amount received from the petitioner in respect of the loan account no. 47428457 of the petitioner forthwith;

d. To direct the respondents no. 2 and 3 to take the strict and exemplary punitive actions against the Respondent no. 1 so that the respondent no. 1 may not harass the other public person like the petitioner."

3. The petitioner had availed of the housing loan of a sum of ₹1,73,50,000/- from respondent no.1 bank (hereafter 'the bank'). The petitioner had also handed over a title deed of the property bearing no.B-21, Satyawati Colony, Ashok Vihar, Phase-3, New Delhi-110052 for creating an equitable mortgage in favour of the bank.

4. Apparently, the petitioner defaulted in repayment of its dues, which led the bank to issue a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). Thereafter, respondent no.1 bank also issued a notice under Section 13(4) of the SARFAESI Act for taking possession of the said property. The petitioner appealed against the said action by filing a Securitisation Application (SA No.217/2017) before the Debt Recovery Tribunal (DRT). By an order dated 25.04.2018, the DRT restrained respondent no.1 from taking over physical possession of the property subject to the petitioner depositing a sum of ₹29 lakhs. The petitioner claims that the same was deposited.

5. The bank preferred an appeal against the order dated 25.04.2018 passed by the DRT, which was subsequently withdrawn. In the meanwhile, the petitioner also deposited an additional sum of ₹30 lakhs on 14.09.2018.

6. It is the petitioner's case that the loan granted by the bank was on a floating rate of interest and even though the interest rates as prescribed by the RBI had dropped, the petitioner was not given benefit of such reduction.

According to the petitioner, it has overpaid the bank and is now entitled to a refund of the excess amount allegedly overpaid as well as the return of the title documents of the property mortgaged with the bank.

7. It is apparent from the above that the disputes between the petitioner and the bank are, essentially, contractual disputes. It would not be apposite for this Court to entertain the said disputes in proceedings under Article 226 of the Constitution of India.

8. The petitioner further states that he has filed a representation, *inter alia*, with respondent nos.2 and 3 complaining against the conduct of the bank. Mr Parihar, learned counsel appearing for respondent no. 2 states that this is a commercial dispute and it may not be apposite for respondent nos.2 and 3 to entertain such complaints.

9. It is seen that respondent nos.2 and 3 have not responded to the petitioner's representation. In view of the above, this Court considers it apposite to direct respondent nos.2 and 3 to respond to the said representation. In the event the said respondents are of the view that the complaint made by the petitioner cannot be entertained, they shall also communicate the reasons for their view.

10. No further orders are required to be passed in this petition. The petition is, accordingly, disposed of leaving it open for the petitioner to avail of such alternate remedies as may be advised.

VIBHU BAKHRU, J

DECEMBER 03, 2018
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