IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.2069 of 2019
Decided on : 25.01.2019

M/s Bharat Crockery ...... Petitioner

Versus

State Bank of India and ors. ...... Respondents

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

Present : Mr. Parveen Chauhan, Advocate
for the petitioner.

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Manjari Nehru Kaul, J.

Notice of motion.

On the asking of Court, Mr. Ashok Gupta, Advocate, who is present in Court, accepts notice on behalf of the respondents.

Challenge in the instant writ petition filed under Articles 226/227 of the Constitution of India is for issuance of writ in the nature of Mandamus directing respondent-bank to withdraw the notices issued under Sections 13(2) and 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. Petitioner-firm through its proprietor had availed a Cash Credit Limit to the tune of ₹ 5 lakhs from the respondent-bank in the year 2014. Petitioner thereafter took another loan i.e. home loan amounting to ₹ 2 lakhs from the respondent-bank in the year 2015. The said credit facilities were secured by mortgaging the following properties:

i) Stocks and receivables

ii) Plot bearing MC property No.661/336/12, measuring 34 sq. yards situated in Mohalla Tekran, Multani Chowk, Hisar.

3. According to the petitioner, monthly installments were regularly paid till the year 2017. Due to demonitization and huge losses in the business, the petitioner-firm was unable to maintain the financial discipline and its loan accounts were thus, classified as Non-Performing Assets on 27.02.2018. The respondent-bank issued notice dated 24.07.2018 (Annexure P-1) under Section 13(2) of the Act and asked the petitioner to make payment of ₹ 6,56,753/- as was due on 22.07.2018. Thereafter, respondent-bank issued possession notice dated 20.12.2018 (Annexure P-3) under Section 13(4) of the Act for taking symbolic possession of the mortgaged properties. Feeling aggrieved, the present writ petition has been filed.

4. 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.

5. After hearing learned counsel for the peitioner, perusing the petition and without expressing any opinion on the merits of the case, the present writ petition is disposed of with the following directions:

1. The petitioner shall approach the respondent-bank within one month from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. The petitioner shall deposit a draft amounting to ₹ 2 lakh

along with the representation.

3. Respondent-bank shall consider the representation 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 representation shall be taken at the earliest by the respondent-bank but not later than one month from the receipt of such representation.
5. It is clarified that in case the petitioner either fails to submit its representation or fails to deposit the draft of ₹ 2 lakh within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

6. Meanwhile, status quo shall be maintained till a decision is taken by the respondent-bank on the representation submitted by the petitioner. However, it is clarified that the interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

25.01.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No