

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2359-2019

Decided on: 22.02.2019

Monika Gupta

.... Petitioner

Versus

State Bank of India

..... Respondent

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

Present: Mr. Ravindra Jain, Advocate
for the petitioner.

Mr. Kapil Kakkar, Advocate
for the respondent.

MANJARI NEHRU KAUL, J.

Prayer in the instant writ petition filed under Articles 226/227 of the Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for quashing the impugned actions of the respondent-bank and auction notice dated 13.12.2018 (Annexure P-7).

2. The petitioner is the guarantor of the loan which was availed by her father-in-law amounting to ₹10 lakhs in the year 2007 against the following secured assets:-

- (i) Commercial shop situated at Purani Subash Mandi, Tehsil Thanesar, District Kurukshetra measuring 111 sq. yds. in the name of Smt. Monika Gupta (petitioner) wife of Shri Ajay Gupta.
- (ii) The stock of the shop situated at Jain Market, Railway Road, Kurukshetra.

3. According to the petitioner, the monthly installments were being paid regularly till the death of her father-in-law in the year 2012. Thereafter, the loan account was declared as Non-Performing Asset (NPA). The respondent-bank thereafter issued notice to the petitioner dated 19.10.2015 (Annexure P-1) under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act') asking the petitioner to make payment of ₹918764.09 which was due as on 09.10.2015. A suit for recovery was also filed by the respondent-bank on 28.05.2015 before the learned Civil Court at Kurukshetra vide Civil Suit No.1049 of 2015, which was decided on 12.01.2018. The petitioner thereafter received possession notices dated 10.12.2015 and 20.01.2016 (Annexure P-2 colly) under Section 13(12) of the Act. Vide order dated 18.01.2017, the District Magistrate issued directions to the Superintendent of Police, Kurukshetra to provide necessary help for taking physical possession upon the application filed under Section 14 of the Act by the respondent-bank. 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 the account within a reasonable period in a time bound manner.

5. 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.

6. After hearing learned counsel for the parties, 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 of ₹2 lakhs alongwith 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 two months from the receipt of such representation.
 5. It is clarified that in case the petitioner fails to submit her representation within the specified time or fails to deposit a draft of ₹2 lakhs, the respondent-bank would be at liberty to proceed in accordance with law.
7. Meanwhile, the interim protection granted by this Court vide order dated 29.01.2019 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

22.02.2019

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No