IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-17858-2019
Date of Decision:05.07.2019

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M/s Dhiman Poultry Farm
. . . . . Petitioner

Vs.

Bank of Baroda
. . . . . Respondent

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CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ARUN KUMAR TYAGI

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Present: - Mr.B.S. Rana, Sr. Advocate, with
Ms.Divya Bajaj, Advocate,
for the petitioner.

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RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the notice dated 29.6.2019 purported to have been issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short 'the Act'].

In brief, the petitioner has availed loan from the respondent-bank for the purpose of setting up a poultry farm on the land falling in mustatil No.16//4/1, 16//7/1, 17//1, 2/1, 3/1, 9/2/2, 10/1 situated at Village Tamdoli, Sub Tehsil Mulana, District Ambala. He had availed the following loans vide sanction letter dated 27.12.2014: -

(i) Term Loan-1 amounting to ₹74.75 lakh for building/shed construction.

(ii) Term Loan-II amounting to ₹33.25 lakh for purchase of cages and machineries.

(iii) Cash credit limit amounting to ₹40 lakh for hypothecation of stock, live stacks etc.

(iv) Working Capital Term Loan amounting to ₹52 lakh for cost upto laying for 42,000 lawyer birds.

It is alleged that the petitioner had already paid 27 installments without any default but because of serious aliment of his wife, who ultimately expired on 6.10.2018, he could not look after his business and the installments could not be paid in time. It is not disputed that the respondent-bank had declared the account of the petitioner as NPA and issued a notice under Section 13(2) of the Act on 21.7.2018 and it is averred without any evidence that the petitioner had approached the bank for restructuring the loan but the fact remains that the respondent-bank has now issued impugned notice dated 29.6.2019 asking the petitioner to pay the entire loan amount of ₹1,53,09527.49 plus interest which was asked to be paid vide notice dated 21.7.2018. Otherwise, the petitioner had been threatened that physical possession of the securities held by the Bank would be taken on 05.07.2019 at about 11:00 AM.

Learned senior counsel appearing on behalf of the petitioner has earnestly submitted that if the period of three months is granted to the petitioner then he would be in a position to pay the entire loan amount. It is submitted that the petitioner is in the process of selling his properties in order to arrange the amount for the purpose of paying all the debts.

We have specifically asked him about the properties owned by the petitioner which is likely to be sold by him during this period to which there is no reply nor anything is mentioned in the petition in this regard as to which are the other properties owned by the petitioner other than the one which has been mortgaged by him for the purpose of raising loan which could be sold for the purpose of arranging money for paying the debts of the bank. We have also asked him as to whether the petitioner can deposit some amount to prove his *bona fide* that he could make the entire payment of the bank within three months to which the answer has been given that at present the petitioner does not have any money.

Thus, in view of the aforesaid facts and circumstances, we are of the considered opinion that the prayer of the petitioner for seeking three months period to make the arrangement of the amount for payment of the entire loan of the bank is just a lame excuse to gain time because he has no money at present even to show his *bona fide*.

With these observations, we do not find any merit in the present petition and the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

05.07.2019
Vivek

Whether speaking /reasoned : Yes/No
Whether Reportable : Yes/No