IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12396 of 2018
Decided on : 16.01.2019

Jasvir Singh ...... 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. Karan Bhardwaj, Advocate
for the petitioner.

Ms. Anureet Budwal, Advocate for
Mr. Vikas Chatrath, Advocate
for the respondents.

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Manjari Nehru Kaul, J.

Written statement along with Annexures R-1/1 to R-1/3 filed on behalf of respondent No.1 in Court today, is taken on record. Copy thereof has also been furnished. Office to tag the same at appropriate place.

1. Prayer in the instant petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of Certiorari for quashing the actions of respondent No.1 – Bank and letter dated 02.05.2018 (Annexure P-2) issued by respondent No.3 vide which the physical possession of the mortgaged property was to be handed over to respondent No.1 on 17.05.2018.

2. Petitioner had applied for an educational loan amounting to ₹ 7.50 lakhs from the respondent-bank, which was sanctioned on

30.01.2009. The said loan was sanctioned against the security of the following property:

> *House No.158A, Guru Teg Bahadur Nagar, Kharar, Khasra No.19//21/1, 20//24/1, 19//20/4-16/2, 17/2, 25/1 total measuring 5/525 share i.e. 0-5 marla.*

3. According to the petitioner, he had been paying the monthly installments regularly and had paid an amount of ₹ 8,27,617/- but due to unemployment he could not maintain the financial discipline. Thereafter, respondent-bank approached District Magistrate while proceeding under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as 'the Act') for taking the physical possession of the mortgaged property. Hence, the present writ petition.

4. In the reply filed by respondent No.1, it was submitted that the loan account of the petitioner was declared as Non Performing Asset on 01.07.2016. Thereafter, bank issued notice dated 05.08.2016 under Section 13(2) of the Act asking petitioner to make a payment of ₹ 8,72,788/- as on 05.08.2016 and sufficient opportunities were given to the petitioner to make payment. However, the petitioner failed to deposit the amount and accordingly, possession notice dated 21.11.2016 under Section 13(4) of the Act was issued.

4. Learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize his account within a reasonable period.

5. Learned counsel for the respondent-bank submitted that in case

a reasonable proposal is made by the petitioners, 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 accounts.
2. The petitioner shall deposit a draft amounting to ₹ 1 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 two months from the receipt of such representation.
5. It is clarified that in case the petitioner either fails to submit his representation or fails to deposit the draft of ₹ 1 lakh within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

6. The interim protection granted by this Court vide order dated 31.05.2018 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

16.01.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No