IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No.23376 of 2017
Date of Decision : 21.02.2019

M/s Manager Shab Dairy Farm through its partner
Mr. Pardeep Kumar and another ....Petitioners

VERSUS

Corporation Bank and others... Respondents

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

...

Present: Mr. Ajay Bhardwaj, Advocate
for the petitioners.

Mr. G.S.Ahluwalia, Advocate
for respondents No. 1 and 2.

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MANJARI NEHRU KAUL, J.

1. The instant petition has been preferred by the petitioner firm under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Certiorari for quashing/setting aside the impugned notice dated 02.09.2017 issued by the respondent-Bank vide which respondent-Bank put the immovable properties of the petitioner on auction and also for setting aside the order dated 03.10.2017 passed by the learned Debt Recovery Tribunal-II, Chandigarh, whereby notice of motion was issued for 11.10.2017 but stay of auction dated 02.09.2017 was impliedly denied.

2. Briefly, the facts may be noticed. The petitioner-firm availed two loans i.e. CC/OD limits of ₹25.00 lakhs and one AGTL loan of ₹104.00 lakhs from the respondent bank against their primary security of agriculture land total measuring 21 Kanal 9 Marlas (2.65 acres) agriculture land situated at Village Majri, Tehsil Bahadurgarh, District Jhajjar along with the other collateral securities.

3. According to the petitioners, they had been regularly paying the instalments due, till August 2016 but due to demonetization and some personal circumstances they were unable to maintain the financial discpline as a result of which their accounts were classified as Non Performing Assets (NPA) on 11.09.2017. Subsequently, the petitioners received a notice of sale under Section 13 (4) of the Securitisation and Reconstruction of Final Assets and Enforcement of Security Interest Act, 2002 dated 02.09.2017. Thereafter, the petitioners approached the Debts Recovery Tribunal-II, Chandigarh whereby though notice of motion for 11.10.2017 was issued but stay of auction notice dated 02.09.2017 was impliedly declined. Feeling aggrieved, the present writ petition has been filed.

4. Vide order dated 11.10.2017, notice of motion was issued in the following terms:-

> *"Learned counsel for the petitioners submitted that the petitioners had raised two loans i.e. CC/OD limits and Agriculture Term Loan (AGLT) from the respondent-bank. There was some default in the payment, on account of which the loan account was declared as NPA. The petitioners cleared the defaulted amount in June 2017, which is evident even from the communication from the bank (Annexure P-5). Still as the loan account had already been declared NPA and was not renewed, the mortgaged property is sought to be auctioned on 12.10.2017.*

Notice of motion to respondent No.1 and 2 only, for 25.10.2017.

Process dasti only.

In the meantime, confirmation of the sale, if any, shall remain stayed."

5. Learned counsel for the petitioners submit that they are ready and willing to clear the outstanding dues or to regularize their accounts within a reasonable period.

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 petitioners shall approach the respondent-bank within 15 days from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan accounts.
2. The petitoiners shall deposit a draft amounting to ₹10 lakhs along with the representation.
3. Respondent-bank shall consider the representation submitted by the petitioners sympathetically in accordance with law, after affording an opportunity of hearing to the petitioners 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 petitioners either fail to submit their representation or fail to deposit the draft of ₹10 lakhs within the specified time, the respondent-bank would be at

liberty to proceed in accordance with law.

Meanwhile, status-quo shall be maintained till the representation is decided.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

21.02.2019
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Whether speaking/reasoned Yes / No
Whether Reportable: Yes / No