IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Civil Writ Petition No.21805 of 2018 (O & M)
Date of Decision: *January 29, 2019*

Gurmej Singh

..... PETITIONER

VERSUS

Punjab & Sind Bank

..... RESPONDENT

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CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE HARNARESH SINGH GILL

. . .

PRESENT: - Mr. Rakesh Sobti, Advocate, for the petitioner.

Ms. Adarshpal Kaur, Advocate, for the respondent.

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Harnaresh Singh Gill, J

Being aggrieved of Notice under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Act, 2002 (SARFASI Act, 2002) dated 24.04.2018 (Annexure P-3) and notice dated 30.04.2018 (Annexure P-4), petitioner Gurmej Singh has filed this petition under Articles 226/227 of the Constitution of India.

2. Briefly, the facts as narrated in the petition may be noticed. Petitioner applied for housing loan facility of ₹ 10 lac from Punjab and Sind Bank – respondent for 10 years with monthly installment of ₹ 13,100/-. Petitioner mortgaged his property i.e. Plot No.324, comprising in Khasra

No.474 min, total plot measuring 150 sq. yards situated at Sultanwind Sub-Urban, Abadi Rajinder Nagar, Amritsar.

3. According to the petitioner, after paying 1st and 2nd installment of ₹ 13,100/- each on 05.08.2016 and 03.09.2016, the petitioner was asked by the bank manager to adjust FD of ₹ 1,60,000/- as advance installment and accordingly ₹ 1,21,002/- were credited to the account of the petitioner on 17.09.2016 as advance loan installment and remaining amount was returned to the petitioner.

4. Thereafter, another installment of ₹ 13,500/- was paid on 05.10.2016 and within three months, petitioner paid ₹ 1,60,702/- to the respondent – Bank. Even then, the respondent – Bank informed the petitioner that they have initiated action under Section 13(4) of the SARFAESI Act dated 24.04.2018 for recovering loan amount and symbolic possession notice dated 30.04.2018 were issued to the petitioner. Hence, the present writ petition.

5. Respondent – Bank has filed the written statement in court today and the same is taken on record. It was submitted that no installment except the amount directed by this Court has been paid by petitioner since October 2016. Thus, account was declared non-performing asset on 29.09.2017 and demand notice under Section 13(2) of SARFAESI Act was issued on 07.10.2017 but petitioner ignored the said notice and further proceedings under Section 13(4) of SARFAESI Act were initiated on 30.04.2018.

6. At this stage, learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize his account within reasonable period.

7. Learned counsel appearing for the respondent – Bank very fairly states that in case petitioner approaches the bank authorities with some reasonable proposal, the respondent – Bank is ready to consider the same.

8. 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 15 days from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. 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.
3. The decision on the representation shall be taken at the earliest by the respondent-bank but not later than six weeks from the receipt of such representation.

9. The interim protection granted by this Court vide order dated 30.08.2018 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 granted on 30.08.2018 shall not be construed as an expression of opinion on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

January 29, 2019
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Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No