IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on : 21.02.2019

CWP No.25520 of 2017

M/s N More Resort and ors. ...... Petitioners

Versus

Allahabad Bank ...... Respondent

CWP No15794 of 2018

Allahabad Bank ...... Petitioner

Versus

District Magistrate, Amritsar & ors. ...... Respondents

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

Present : Mr. Rohit Suri, Advocate for
for the petitioners in CWP No.25520 of 2017 and
for respondents No.3 and 4 in CWP No.15794 of 2018.

Mr. K.K.Goel, Advocate
for the petitioner in CWP No.15794 of 2018.

Mr. Akhilesh Vyas, Advocate with
Mr. Nishant Shukla, Chief Manager
for the respondent in CWP No.25520 of 2017.

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Manjari Nehru Kaul, J.

This order will dispose of above-said two writ petitions as the issue involved in both the writ petitions is same. The facts of the case are taken from CWP No.25520 of 2017.

2. The present writ petition has been filed under Articles 226/227 of the Constitution of India inter alia for issuance of writ in the nature of Certiorari for quashing the demand notice dated 29.08.2017 (Annexure P-2)

and the possession notice dated 03.11.2017 (Annexures P-4) issued under Sections 13(2) and 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act') by the respondent-bank.

3. Initially, the petitioners raised a Term loan of ₹ 2 crores from the respondent-bank on 19.09.2014 for constructing a Marriage Palace. Thereafter, they took another term loan of ₹ 65 lakhs for the said purpose. The said credit facilities were secured against the following property:

> *"All that part and parcel of land and building bearing khasra No.48/26/2, 12/1/2, 12/2/19/1, 19/2/1, 17/2, 24/1 min, khata khatuni No.100/201, vakiya rakba jandiala guru, hadbast No.135, Tehsil and Distt. Amritsar."*

4. According to the petitioners, a sum of ₹ 50 lakhs was deposited uptill March, 2016 and further ₹ 30 lakhs till December, 2016. Thereafter due to demonitization and implementation of new Tax Policies, they could not discharge their financial liability. However, the petitioners during the period from January to March, 2017 deposited a sum of ₹ 28 lakhs and after March, 2017 ₹ 11.40 lakhs with the respondent-bank. On 29.08.2017, respondent -bank initiated proceedings under the Act, which culminated in possession notice dated 03.11.2017 for taking possession of the mortgaged property. Hence, the present writ petition has been filed.

5. Vide order dated 22.11.2017, notice of motion was issued in the following terms:

> *"Learned counsel for the petitioners submitted that according to the petitioners, the defaulted amount of*

installments as on today is around ₹ 40 lacs. The petitioners will pay a sum of ₹ 10 lacs within a period of one week from today. Another sum of ₹ 10 lacs will be paid within a period of two weeks thereafter and further ₹ 20 lacs will be paid within a period of two weeks thereafter. In case, any other amount is found to be overdue, the petitioners will clear the same. The petitioners will also make arrangements to regularize the installment.

Notice of motion for 14.12.2017.

Mr. Akhilesh Vyas, learned counsel appearing for the respondent/caveator, accepts notice on behalf of the respondent.

Subject to petitioners' depositing the amount as state above, dispossession from the property in dispute shall remain stayed."

6. Learned counsel for the petitioners submitted that the petitioners are ready and willing to clear the outstanding dues or to regularize their account within a reasonable period.

7. 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.

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 petitioners shall approach the respondent-bank within 15 days from the date of receipt of certified copy of the order by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan

account.

2. The petitioners shall deposit a draft amounting to ₹ 25 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 15 days from the receipt of such representation.
5. It is clarified that in case the petitioners fail to submit their representation or fail to deposit the draft of ₹ 25 lakhs within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

9. Meanwhile, the interim protection granted by this Court vide order dated 22.11.2017 shall be maintained till a decision is taken by the respondent-bank on the representation submitted by the petitioners. 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

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