IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.23216 of 2019
Date of decision : 24.09.2019

Gurbinder Singh Uppal

…. Petitioner

Versus

Kotak Mahindra Bank and others

….Respondents

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

Present : Mr. Shrey Vasudev, Advocate
for Mr. Simranjeet Singh, Advocate
for the petitioner.

*****

ARUN KUMAR TYAGI, J.

1. The petitioner has prayed for the issuance of writ in the nature of certiorari for quashing the impugned order and recovery certificate both dated 18.09.2018 (**Annexure P-1**) issued by respondent No.2.

2. The petitioner has averred that he alongwith respondents No.3 and 4 as co-borrowers and respondents No.5 and 6 as guarantors had taken credit limit/KCC of ₹1.40 crores from ING Vysya Bank Limited which was later on amalgamated into the respondent No.1-Kotak Mahindra Bank Limited (hereinafter referred to as the Bank). The credit facility was sanctioned against mortgage of land measuring 13.63 acres situated at Village Bhartankalan, Tehsil and District Nawanshahr and residential property measuring 7 marlas and 5.5 Sarsais situated at Village Kahlon, Tehsil and District Nawanshahr. The account of the petitioner was declared

as a Non Performing Asset on 30.03.2016. The petitioner has thereafter deposited ₹13 lakhs. The respondent No.1-Bank has charged exorbitant rate of interest and also penal interest in illegal and arbitrary manner. Instead of acceding to the request of the petitioner to reduce the rate of interest and to waive penal interest, the respondent No.1-Bank filed OA No.526 of 2016 titled Kotak Mahindra Bank Limited Versus Gurwinder Singh and others before respondent No.2-Debts Recovery Tribunal-III, Chandigarh which, without looking into the irregularities committed by the officials of the respondent No-1–Bank, allowed the claim vide order dated 18.09.2018 and issued certificate for recovery. The petitioner approached the respondent No.1- Bank to settle the loan account but respondent No. 1- Bank is bent upon to illegally sell the land of the petitioner.

6. We have heard learned counsel for the petitioner and gone through the record.

7. The petitioner has claimed that the respondent No.1-Bank has charged exorbitant rate of interest and also penal interest in illegal and arbitrary manner. In his written statement filed to OA No. 526 of 2016 titled Kotak Mahindra Bank Limited Versus Gurwinder Singh and others filed by the respondent No.1-Bank before the Debts Recovery Tribunal-III Chandigarh, the petitioner denied the contents but did not lead any evidence which could create any doubt on the reliability of loan documents. The Debts Recovery Tribunal-III Chandigarh allowed the claim for recovery of ₹1,87,96,637.06Ps. with costs and current and future simple interest at the rate of 10% per annum from 18.11.2016 till the date of realisation of the amount. Even after allowing of the application and issuance of recovery certificate against the petitioner by the Debts Recovery Tribunal-III,

Chandigarh, the petitioner did not avail the equally efficacious statutory remedy of filing appeal before the Debts Recovery Appellate Tribunal.

8. Learned Counsel for the petitioner has, instead of addressing any arguments on merits and pointing out any illegality in the order passed and recovery certificate issued by the Debts Recovery Tribunal-III, Chandigarh, merely argued that the petitioner is ready to settle the loan account and earnestly craved for indulgence of the Court.

9. However, on being questioned about amount offered by the petitioner to show genuineness of his offer of settlement and also proposed payment plan, learned Counsel for the petitioner has fairly conceded that the petitioner has no means and ready money to pay whole or even part of the amount due to the respondent No.1-Bank. In these facts and circumstances no ground is made out for any interference by this Court.

10. The writ petition is, therefore, devoid of any merit and is accordingly dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

24.09.2019
Kavneet Singh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No