IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3885-2018
Decided on: 25.02.2019

Vivek Kumar Sharma

.... Petitioner

Versus

Andhra Bank Zonal Office, Ludhiana through Chief Manager & Ors.

..... Respondents

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

Present: Mr. Rajnikant, Advocate for
Mr. R.K. Verma, Advocate
for the petitioner.

Mr. Gaurav Goel, Advocate
for the respondent-bank.

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MANJARI NEHRU KAUL, J.

The instant writ petition preferred under Articles 226/227 of the Constitution of India, inter alia for issuance of a writ in the nature of certiorari for quashing/setting aside the order dated 18.08.2017 (Annexure P-6) passed by the Additional District Magistrate, SAS Nagar (Mohali)-respondent No.3.

2. The petitioner availed a housing loan from the respondent-bank for an amount of ₹11 lakhs in the year 2015, which was to be repaid in 240 installments @ ₹11,500/- per month against collateral security of Residential House No.1908, Adarsh Nagar, Near Nirankari Bhawan, Village Nayagaon, Tehsil & District Mohali.

3. According to the petitioner, he had regularly been repaying the loan amount on monthly basis, but due to certain compelling

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circumstances, he defaulted in making regular payment of installments of the loan amount, as a result of which his loan account was classified as Non-Performing Asset (NPA). Subsequent to his loan account being classified as NPA, proceedings under the SARFAESI Act were initiated against him by the respondent-bank culminating in an application under Section 14 of the Act being moved before the Additional District Magistrate, SAS Nagar, Mohali-respondent No.3 directing the Tehsildar to liaison with the bank and Police Department for taking physical possession of the mortgaged property. Feeling aggrieved, the present writ petition has been filed.

4. Learned counsel for the petitioner submits that the petitioner is ready and willing to clear the outstanding dues or to regularize the account within a reasonable period in a time bound manner.

5. Learned counsel for the respondent-bank has submitted that in case a reasonable proposal is made by the petitioner, 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 account.
2. The petitioner shall deposit a draft amounting to ₹2 lakhs alongwith the representation.

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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 one month from the receipt of such representation.
5. It is clarified that in case the petitioner fails to submit his representation within the specified time or fails to deposit a draft of ₹2 lakhs, the respondent-bank would be at liberty to proceed in accordance with law.

7. Meanwhile, the interim protection granted by this Court vide order dated 19.02.2018 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)	**(MANJARI NEHRU KAUL)**
JUDGE	**JUDGE**

25.02.2019

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

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