IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9076 of 2018
Decided on : 06.03.2019

Jagtar Singh ...... Petitioner

Versus

Sarva Haryana Gramin Bank & ors. ...... Respondents

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

Present : Mr. Anmol Verma, Advocate
for the petitioner.

Mr. M.K.Gupta, Advocate
for the respondents.

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Manjari Nehru Kaul, J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Certiorari for setting aside quashing the impugned possession notice dated 11.04.2018 (Annexure P-1) issued by the respondent-bank.

2. The petitioner had availed a loan of ₹ 3 lakhs from the respondent-bank in the year 2010 for construction of the house against the collateral security of the property of land measuring 09k 02 marla comprised in K/K No.27(26)/39 to 41 bearing Khasra No.17//28(9-7), 25//18/3(1-4), 26//17(6-11) (share of Sh. Jagtar Singh is 02k-02M), K/K No.41(38)/55 & 56 bearing Khasra No.17//27(1-8), 25//21/4(2-12), 22(7-7), 23(7-9), 28//22/6(7-12), 25//11(5-16), 12/2(3-0), 19(8-0), 20(7-4) (share of Sh. Jagtar Singh is 06K-06M) and K/K No.59(54)/80 baring Khasra

No.14//18/2(1-5), 19/2(4-9), 21/2/2(1-5), 22(4-11), 23(0-11) (share of Sh. Jagtar Singh is 0K-14M) as per Jamabandi for the year 2006-07.

3. According to the petitioner, he had been regularly paying the monthly installments till January, 2011. Thereafter he met with an accident as a result of which, he could not discharge his financial liability. Consequently, the respondent-bank initiated proceedings under Securitisation and Reconstruction of Financial Assets and of Security Interest Act, 2002 (in short 'the Act') which culminated in issuance of possession notice dated 11.04.2018 (Annexure P-1) for taking physical possession of the mortgaged property. Feeling aggrieved, the present petition has been filed.

4. While issuing notice of motion on 13.04.2018, this Court granted an interim protection to the petitioner.

5. Learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize his account 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 petitioner shall approach the respondent-bank within two months from the receipt of certified copy of this order 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 ₹ 1 lakh

along with the representation.

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 two months from the receipt of such representation.
5. It is clarified that in case the petitioner fails to submit his representation or fails to deposit the draft of ₹ 1 lakh within the specified time, 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 13.04.2018 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)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

06.03.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No