**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**C.W.P. No. 30605 of 2018**
**Date of Decision : 26.02.2019**

**M/s Devi Dayal Sachin Kumar ....................................Petitioner**

**VERSUS**

**Punjab & Sind Bank through its authorised officer and another ................................................Respondents**

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

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Present: Mr. Ashok Gupta, Advocate for the petitioner.

None for the respondents.

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**MANJARI NEHRU KAUL, J.**

1. The instant petition has been preferred by the petitioner-firm under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Certiorari for quashing the impugned demand notice dated 10.01.2017 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'Act') (Annexure P3) and impugned possession notice dated 28.09.2018 under Section 13 (4) of the Act (Annexure P4).

2. The petitioner-firm availed loan of ₹50.00 Lakhs from the respondent-bank on 18.06.2014 which was duly secured by way of equitable mortgage of shop No.69 measuring 20' x 85' situated in New Grain Market, Shahbad Markanda.

3. According to the petitioner, he had been regularly re-paying the loan instalments but due to heavy financial losses suffered in the year 2016, he was unable to maintain the financial discpline as a result of which his bank account became irregular. Thereafter, the respondent-bank initiated proceedings under the Act by issuing notice dated 10.01.2017 to the petitioner under Section 13(2) thereof (Annexure P3) and finally notice dated 28.09.2018 under Section 13(4) of the said Act (Annexure P4) for taking physical possession of the aforementioned mortgaged property. Feeling aggrieved, the present writ petition has been filed.

4. Vide order dated February 04,2019, notice of motion was issued in the following terms:-

> *"Learned counsel for the petitioner states that another sum of ₹2.00 lakhs shall be deposited with the respondent-Bank within a week, so as to bring the amount within the Cash Credit Limit of ₹50.00 lakhs.*
>
> *Adjourned to 26.02.2019.*
>
> *In the meantime, status quo be maintained till the next date of hearing.*
>
> *Learned counsel for the respondent-Bank shall keep the record ready for perusal of the Court on the next date of hearing."*

5. Learned counsel for the petitioner submits that the petitioner is ready and willing to clear the outstanding dues or to regularize his accounts 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 one month from today by filing a detailed and comprehensive

representation for clearing the outstanding dues or to regularize the loan accounts.

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 one month from the receipt of such representation.
5. It is clarified that in case the petitioner either 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.

Meanwhile, status-quo shall be maintained till the representation is decided. However, it is clarified that the interim protection shall not be construed as an expression of opinion on the merits of this case.

7. Disposed of.

**( AJAY KUMAR MITTAL )**
**JUDGE**

**( MANJARI NEHRU KAUL )**
**JUDGE**

**26.02.2019**
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Whether speaking/reasoned Yes / No
Whether Reportable: Yes / No