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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 14024/2018

M/S HG RETAIL VENTURES PVT. LTD. ..... Petitioner

Through: Mr Arjun Singh Bawa and Ms Vishakha Gupta, Advocates.

versus

CANARA BANK ..... Respondent

Through: Mr Divyakant Lahoti, Mr Parikshit Ahuja, Ms Amrita Grover and Ms Praveena Bisht, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **10.01.2019**

<u>CM No.54791/2018</u>

1. Allowed, subject to all just exceptions.

<u>W.P.(C) 14024/2018</u>

2. The petitioner has filed the present petition, *inter alia,* impugning an order dated 19.11.2018 passed by the ld. ACMM in Case No.26163/2017: captioned *Canara Bank v. H. G. Retail Ventures Pvt. Ltd*.

3. The petitioner states that it had approached the respondent bank (Canara Bank) for financial assistance. Pursuant to the request made by the petitioner, Canara Bank had sanctioned OCC/BD limits to the extent of ₹2,75,00,000/- and non funded limit for bank guarantee amounting to ₹97,98,000/-.

4. Admittedly, the petitioner had defaulted in repayment of its dues and

on 30.06.2015, its account was declared as a ‘Non Performing Asset’.

5. Thereafter, on 20.05.2016, Canara Bank issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act) calling upon the petitioner to pay a sum of ₹4,54,23,388/-. Subsequent thereto, on 26.10.2017, Canara Bank filed an application under Section 14 of the SARFAESI Act before the learned CMM for taking over possession of the mortgaged property – being Flat No.7342, admeasuring 1050 sq. ft. 2nd floor, Pocket-7, Sector-D, Housing Estate, Vasant Kunj, New Delhi-110070). The said application was allowed by an order dated 05.12.2017.

6. The petitioner company preferred an appeal against the said order before the Debt Recovery Tribunal (being SA No.380/2017). Although, initially an ad interim order was granted, however, the same was subsequently vacated and the appeal preferred by the petitioner was dismissed by an order dated 29.08.2018. Subsequently, the Receiver appointed by the learned CMM took over the possession of the mortgaged property

7. The leaned counsel appearing for the petitioner submits that the entire proceedings initiated under the SARFAESI Act are flawed, inasmuch as, the amount demanded in terms of the notice under Section 13(2) of the SARFAESI Act is incorrect. According to the learned counsel appearing for the petitioner, the said amount is higher to the extent of approximately ₹1 crore. The learned counsel submits that in this view, the possession of the mortgaged property ought to be returned to the petitioner, and Canara Bank is required to once again re-commence proceedings under the SARFAESI Act.

8. Any dispute that the petitioner may have with regard to the amount claimed by the Canara Bank has to be adjudicated before the concerned forum. This Court is not inclined to entertain the aforesaid controversy.

9. The learned counsel appearing for the petitioner was pointedly asked whether the petitioner is ready and willing to pay the amount as admitted by the petitioner (which is admittedly in excess of ₹3.5 crores). He responded by stating that he is not in a position to make any such a statement.

10. It is clear that the respondent owes substantial sums to the Canara Bank and, in this view, the relief as sought for by the petitioner cannot be granted.

11. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

JANUARY 10, 2019
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