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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.467 of 2021 (O&M)
Date of Decision:15.03.2021

Jaspreet Singh

...Petitioner

Versus

DRT-II, Sector-17, Chandigarh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Saurabh Bajaj, Advocate for the petitioner.

Mr. Sandeep Suri, Advocate for respondent No.2.

JASWANT SINGH, J. (ORAL)

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

Jaspreet Singh (petitioner) had availed the benefit of two (02) term loans for sums of Rs.45 Lakhs and Rs.25 Lakhs (total Rs.70 Lakhs) on 05.03.2015 for running his business from a financial company, namely, Magma Fincorp Ltd./respondent No.2. The above-said loans were secured by mortgaging two properties, namely, House No.386, Halka No.14, New Sabji Mandi, Ward No.11, Panipat and House No.289/12, Ward No.12, Panipat. The said two accounts were declared NPA on 30.06.2018 due to non-adherence of financial discipline. The financial institution initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for short "SARFAESI Act, 2002") culminating into an order dated 11.12.2020 passed by the District Magistrate, Panipat, directing the concerned Tehsildar to provide official assistance for taking and delivering physical possession of the aforesaid two mortgaged properties to the authorised officer of the financial institution.

At that stage, the principal borrower-petitioner filed the instant writ petition, inter alia, seeking quashing of notices under Section 13(2) and 13(4) of the SARFAESI Act, 2002.

Upon notice, learned counsel for the financial institution entered appearance, and on one of the dates, i.e. 28.01.2021, a settlement was arrived at between the parties, the operative portion of which reads as under:-

> "*On advance notice, Mr.Sandeep Suri, Advocate, appears on behalf of respondent No.2 and state at the very outset points out that the petitioner has not paid any amount for the last 36 months and on the instalments scored alone the amount of Rs.27 Lacs odd would be due. As per Mr.Suri, the amount of the instalment alone is about Rs.35 Lacs and submits that these are desperate tactics just to stay of the taking over the possession and if that is stayed it would set the whole process back by few months.*
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> *Mr.Bajaj, has made a counter to him and submits that petitioner shall deposit a sum of Rs.5 Lacs by today itself and by the 3rd February,2021 he will come forward with a draft of Rs. 20 Lacs and a week thereafter i.e. by 10th February, 2021, the petitioner will deposit another amount of Rs. 10 Lacs so as to bring their instalment upto par. Further to show his bonafide, the petitioner would hand over possession of the house to the Tehsildar who is going to take possession today but the shop may be spared so that the petitioner can raise the money to make the remaining payment.*
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> *Mr.Suri, has very fairly accepted that statement.*"

At the time of resumed hearing today, learned counsel for the financial institution submits that the petitioner has although handed over the possession of one of the properties, in terms of the aforesaid settlement, however, the petitioner has not deposited any amount as agreed. He, thus, prays for dismissal of the writ petition.

Learned counsel for the petitioner has prayed for more time to deposit the first instalment of Rs.5 Lakhs, in terms of the agreement, which we do not find to be justifiable.

It is a conceded case that the petitioner has already approached the learned Debt Recovery Tribunal under Section 17 of the SARFAESI Act, 2002, challenging these very notices.

In view of the above, we find no ground to invoke our writ jurisdiction under Article 226 of the Constitution of India and accordingly, the present writ petition is dismissed, being devoid of any merit.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

15.03.2021
mks

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