

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5208-2021

(Heard through VC)

Date of decision:05.03.2021

Capital Small Finance Bank Ltd.

....Petitioner

V/s.

ICICI Bank Ltd. and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Puneet Sharma, Advocate for the petitioner.

Er. Sandeep Suri, Advocate for respondent No.1.

Ritu Bahri, J. (Oral).

By this petition, the petitioner is seeking writ of certiorari for quashing of impugned orders dated 25.02.2021 (Annexure P-10) and 28.11.2019 (Annexure P-6) passed by learned Debts Recovery Appellate Tribunal, Delhi (hereinafter referred to as 'the Tribunal') challenging an interim order dated 06.09.2019 (Annexure P-3).

Vide order dated 06.09.2019 (Annexure P-3), the ICICI Bank had made an application against the defendants for issuance of Recovery Certificate for a sum of ₹1,59,44,792/- alongwith interest and other dues. On this application, the ICICI bank was to collect summons and effect service upon the defendants. As an interim relief, defendants were restrained from transferring, selling, parting with the possession or creating any third party interest in the hypothecated vehicles i.e. TATA 4923 PB07AS9822, TATA 4923 PB07AS9820, TATA 4923 PB07AS9824, TATA 4923 PB07AS9827, TATA 4923 PB07AS9825, TATA 4923 PB07AS9821 and TATA 4923 PB07AS9826. Against order dated

06.09.2019 (Annexure P-3), on appeal, order dated 21.10.2019 (Annexure P-5) was passed by the Tribunal whereby an employee of the bank namely Satyavir Singh was appointed Receiver to take into his custody the vehicles mentioned in the prayer clause. He was to appear on the next date before the Tribunal alongwith action taken report and steps actually taken by him to trace out and seize the hypothecated vehicles. Thereafter vide order dated 28.11.2019 (Annexure P-6), house of the respondents in which they were living i.e. 2331-A, Ranjit Avenue, Block-C, Amritsar, Punjab was attached and the bank officials were directed to carry out attachment formalities. The ICICI Bank, vide application (Annexure P-8) sought second charge over the properties belonging to the respondents on the ground that above referred residential house was already mortgaged with the petitioner. Thereafter impugned order dated 25.02.2021 (Annexure P-10) has been passed whereby Mr. Randhir Singh, Authorized Officer of ICICI Bank was appointed as a court receiver to take over possession of the house attached and get sealed the same after preparing the inventory of the goods lying inside the house. It has further been observed therein that the attachment will be subject to determination of the claim of the petitioner.

The grievance of the petitioner in the present petition is that the above referred house was mortgaged with the petitioner and even this house is to be sold in auction then the first charge will be of the petitioner and after satisfying the entire outstanding dues (amount) of the petitioner, in case any surplus amount is left, the petitioner-bank undertakes to transfer the said surplus amount to the ICICI bank after intimation to respondent No. 1/ICICI Bank Ltd. Learned counsel for the petitioner has also emailed undertaking in this regard which is taken on record as Annexure P-11. The

details of the properties mortgaged (alongwith the present status of recovery proceedings under SARFAESI Act, 2002) are also mentioned in the undertaking.

Hence, this petition is being disposed of by modifying order dated 25.02.2021 (Annexure P-10) that after satisfying the entire outstanding dues (amount) of the petitioner, in case any surplus amount is left, the petitioner-bank undertakes to transfer the said surplus amount to the ICICI bank under intimation to respondent No. 1/ICICI Bank Ltd. as per undertaking (Annexure P-11). Mr. S.K.Dhawan, Senior EVP (Credit) Capital Small Finance bank, 3rd Floor, MIDAS Corporate Park, 37, GT Road, Jalandhar, (M) 9780005879, is appointed as a court receiver to take over possession of the house attached and get it sealed after preparing the inventory of the goods lying inside the house. This exercise shall be completed within a period of three weeks from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

05.03.2021

Divyanshi

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No