IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO.12134-2021
Date of Decision: 27.07.2021

JATIN MANCHANDA AND ANR. ....PETITIONERS

Versus

CENTRAL BANK OF INDIA AND ANR. ....RESPONDENTS

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

Present : Mr. Abhimanyu Kalsy, Advocate,
for the petitioners.

Mr. Saurabh Bhardwaj, Advocate,
for respondents No.1 to 3-Central Bank of India.

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SANT PARKASH , J.

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court)

By way of filing the present petition, the petitioners have sought issuance of writ in the nature of mandamus directing respondents No.1 to 3 to accept the balance amount of ₹15,00,000/- from the petitioners(gurantors) in terms and compliance of memo/letter RO:RECV:2020-21:881 dated 12.03.2021 (Annexure P-4) issued by respondent No.2 as well as to quash letter/memo bearing No.RO/LUDH/RECV/2020-21/119, dated 18.06.2021 (Annexure P-7). And further for restraining respondents No.1 to 3 to take any coercive action as well as from taking physical possession of the mortgaged property i.e. only residential house owned by the petitioners.

Brief facts of the case are that respondents No.1 to 3 i.e. Central Bank of India on 09.11.2015 sanctioned a renewed/over draft limit of ₹35,00,000/- to respondent No.4 against an equitable mortgage of the residential house bearing No.210-A, measuring 140 sq. yds. jointly owned by both the petitioners (i.e. mother and son). So, the petitioners stood gurantors for the overdraft limit sanctioned in favour of respondent No.4 for its small scale business i.e. manufacturing and selling of hosiery goods under the name and style of M/s Manchanda Traders. Though, respondent No.4 was adhering to the re-payment schedule of respondents No.1 to 3, but on account of heart attack suffered by its proprietor, namely, Pawan Manchanda, he had to remain as indoor patient and still on regular medication, due to this, the business of the firm was badly affected. Ultimately, the account was declared as Non-Performing Asset (NPA) on 28.12.2017 and a notice under Section 13(2) of SARFAESI Act, 2002 was issued on 27.02.2018, vide which, ₹38,54,817/- along with interest @ 12.60% was directed to be deposited. Thereafter, the respondent-bank took the symbolic possession of the property. But on account of pandemic covid-19 situation and on account of heart attack, Pawan Manchanda was not in a position to run his business, so, he entered in a one time settlement (OTS) with the Bank on 10.06.2020 for an amount of ₹19,57,000/-. As per terms of settlement, ₹2,07,000/- was paid through demand draft as upfront money and the remaining amount of ₹17,50,000/- was to be paid by 10.09.2020. But respondent No.4 on account of his ailment and pandemic restrictions failed to pay the balance amount of OTS. Even the request of respondent No.4 regarding extension of time was also declined. Thereafter, respondent No.4 approached this Court through CWP No.18465 of 2020, and this Court vide order dated 04.11.2020 issued notice for 14.12.2020 with direction to the petitioner to deposit 25% of the OTS amount within four weeks and thereafter, the remaining amount as per schedule till 31.03.2021, but due to covid-19 situation and health conditions of Pawan Manchanda, he failed to comply with order dated 04.11.2020 of this Court, as such, the petition was dismissed. However, liberty was granted to the petitioner to avail alternative remedy in accordance with law. Hence, the petitioners have filed the instant petition.

While issuing notice of motion, vide order dated 08.07.2021, the following order was passed by this Court:-

> *"The limited prayer is for extending the time for payment of the entire balance amount of ₹15 Lakh under the sanctioned OTS scheme which was to be paid by 17.06.2021.*
>
> *It is contended that the petitioners are ready and willing to deposit the aforesaid amount of ₹15 Lakh within next 10 days.*
>
> *Notice of motion for 20.07.2021.*
>
> *To be shown in Urgent List.*
>
> *Mr. Saurabh Bhardwaj, Advocate accepts notice on behalf of the respondent bank and does not seriously oppose such a request.*
>
> *The petitioners are directed to deposit the sum of ₹15 Lakh with the respondent bank before the next date of hearing."*

Since, order dated 08.07.2021 was not complied with by the petitioners, the following order was passed on 20.07.2021:-

> *"Counsel for respondent Nos. 1 to 3 – Bank submits that the previous directions passed by this Court pertaining to deposit of ₹15 Lakh have not been complied with, whereas the counsel for petitioners asserts that the Bank had refused to accept the same.*
>
> ***Be that as it may**, counsel for petitioners undertakes not only to deposit a sum of ₹ 15 Lakh, but also an additional amount of ₹ 40,000/- towards the interest component on delayed payment of the portion of the OTS amount.*
>
> *Adjourned to **27.07.2021**.*
>
> *Let the petitioners now deposit a sum of ₹ **15,40,000/-** before the Bank to be kept in No Lien Account, failing which, no further indulgence shall be extended."*

Learned counsel for respondents No.1 to 3-Bank by filing reply in the Court today, submits that the petitioners have not complied with the aforesaid orders and the allegations that the petitioners had come to the bank with ₹15 lakh cash is totally vague and concocted. The bank is always ready & willing to accept any amount deposited by the borrower/gurantors and the title deeds can only be released after receiving full payment & following proper process; which can take 7-10 working days. He further submits that one car loan in the name of Pawan Manchanda at Branch office Sarabha Nagar having outstanding ₹6,50,402/- was declared NPA on 29.11.2018 and another car loan in the name of petitioner No.1 at Branch Office, Focal Point having outstanding amount of ₹6,88,804/- was also declared NPA on 29.11.2019.

Heard.

Concededly, the petitioners have not been able to comply with the undertaking, which was given by the counsel for the petitioners on their instructions, therefore, this Court has left with no other option, but to dismiss this petition for non-compliance of orders dated 08.07.2021 and 20.07.2021. Ordered accordingly.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

27.07.2021
sonika

whether speaking/reasoned: Yes/No
whether reportable: Yes/No