IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13709-2021
Date of Decision:19.08.2021

Shri Shubham Enterprises through its proprietor

...Petitioner

Versus

Canara Bank and others

...Respondents

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

Present: Mr. J.S. Yadav, Advocate,
for the petitioner.

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

SANT PARKASH, J.

The instant writ petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing of notice dated 29.09.2017 (Annexure P-4) issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for short "SARFAESI Act") as well as sale notice dated 24.02.2020 (Annexure P-6) issued under Section 13(4) of the SARFAEST Act and also for issuance of a writ in the nature of nature of mandamus directing respondents No. 1 to 3 to regularise/settle the account of the petitioner under OTS scheme.

Learned counsel for the petitioner submits that Saroj Devi, the sole proprietor of Shri Shubham Enterprises applied for Cash Credit limit of Rs.45 Lakhs and the same was sanctioned on 30.08.2014 by respondent

No.2-Bank. Learned counsel further submits that on the request of petitioner-Firm, over draft facility was enhanced to Rs.90,00,000/. As collateral security, petitioner-Firm mortgaged its properties, i.e. Plot No.J/772 (measuring 250 square yards) situated at Industrial Area-II, Bhiwadi, Tehsil Tijara, District Alwar (Rajasthan) and Plot No.221 (measuring 100 Square yards) situated at Gali No.6, Yadav Nagar, Rewari (Haryana). He next submits that though the petitioner-Firm had been regularly paying the installments but due to scarcity of funds, petitioner-Firm could not pay some of the installments of loan amount timely and therefore, account of the petitioner-Firm became irregular. He next submits that the respondent-Bank issued notice dated 29.09.2017 (P-4) under Section 13(2) of the SARFAESI Act and also sale notice dated 24.02.2020 (P-6) under Section 13(4) of the SARFAESI Act read with Rule 8(6) of the Security Interest (Enforcement) Rules, 2002.

Learned counsel for the petitioner argues that the action of the respondent-Bank is in complete violation of the provisions of the SARFAESI Act and the Rules framed thereunder and therefore, impugned notices are liable to be quashed. He further submits that the petitioner is ready and willing to pay the outstanding loan amount and to settle the matter.

This Court has heard the learned counsel for the petitioner and perused the paper-book.

Admittedly, petitioner-Firm availed Cash Credit limit of Rs.45,00,000/- and the same was enhanced to Rs.90,00,000/-. The aforesaid amount was concededly secured by mortgaging the above-said properties with respondent-Bank. It is also not in dispute that the petitioner-Firm failed to repay the loan amount and therefore, the respondent-Bank initiated SARFAESI proceedings by issuing impugned notices.

On the last date of hearing, i.e. 27.07.2021, following order was passed by this Court:

> *"Counsel for the petitioner(s) prays for time to place on record the One Time Settlement (OTS) scheme floated by the respondent-Canara Bank, under which, the cases of the petitioner(s) are required to be considered.*
>
> *List on 18.08.2021.*
>
> *A photocopy of this order be placed on the file of connected case."*

Today, learned counsel for the petitioner has failed to comply with the above-said order and has not placed on the file any One Time Settlement scheme floated by the respondent-Bank under which the case of the petitioner can be considered.

De hors the aforesaid factual aspects, petitioner has efficacious remedy available before the appropriate authority i.e. Debt Recovery Tribunal. The law in this regard is very settled that when appropriate forum is provided under the SARFAESI Act, this Court stands injuncted from interfering with any matter arising out of the proceedings under the SARFAESI Act. Therefore, no ground for interference is made out particularly, in view of the judgment of the Supreme Court in the case of ***United Bank of India Versus Satyawati Tandon and others**, reported as* ***(2010) 8 SCC 110 and Authorised Officer, State Bank of Travancore and another Vs Mathew K.C., 2018 (2) R.C.R. (Civil) 1.***

In view of the aforesaid position, the present writ petition is dismissed and the petitioner is relegated to avail its remedy available before the Debt Recovery Tribunal.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

19.08.2021
mks **Whether Speaking/Reasoned: YES / NO**
Whether Reportable: YES / NO