S/L 14
08.02.2022
Court. No. 19
GB

W.P.A. 18600 of 2021

Subir Kumar Ghosh
VS
Bankura District Co-operative Agriculture &
Rural Development Bank Limited & Ors.

Mr. Subash Chandra Atha,
Ms. Payel Paramanik.
... for the Petitioner.

Mr. Subrata Kumar Basu,
Ms. Manisha Das,
Ms. Neelanjana Ghorui.
... for the Respondents.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner has challenged the notice issued under Sub-Rule (2) of Rule 191B of the West Bengal Cooperative Societies Rules, 2011.

The petitioner submits that the principal amount of Rs.25 lakhs shall be paid if the Court grants some time. The petitioner had taken a loan of Rs.25 lakhs from the cooperative bank and had mortgaged a fixed deposit receipt of Rs.11 lakhs along with some land. The petitioner failed to repay the loan as per terms and conditions of the loan agreement and accordingly, the loan amount was declared as a non-performing asset. The authorities have now proceeded against the land of the petitioner by issuing a sale notice.

The petitioner is aggrieved by the initiation of the proceeding for sale of the mortgaged land and also for the huge demand of interest made by the authorities. The petitioner is willing to pay the principal amount. The *bona fide* of the petitioner is not doubted to the extent of his willingness to pay the principal amount, upon allowing the bank to encash the fixed deposit and forfeit the maturity value and also by paying the differential amount over and above the encashed fixed deposit, totalling to Rs.25 lakhs.

The learned advocate for the bank submits that the interest along with the principal was over 36 lakhs and the petitioner was required to pay the entire amount.

It is also submitted by the bank that the petitioner is a member of the cooperative society.

In view of the *bona fide* approach of the petitioner, this Court is of the opinion that before the sale officer takes steps as per the rules, the petitioner must be allowed an opportunity to approach the authorities with the proposal for payment of the principal amount and the authorities shall take into consideration such *bona fide* approach of the petitioner and allow the petitioner to pay up the entire principal amount and thereafter negotiate the terms for payment of the interest. A proposal for one time settlement of the interest amount must be considered.

The petitioner has already approached the Chief Administrative Officer by a representation dated May 5, 2021 and the same shall be disposed of by the authority upon considering the petitioner's offer, within a period of three months from date of communication of this order. Till such disposal, the sale officer shall not take any steps.

This order is being passed upon taking into consideration the provisions of the rules which grant several opportunities to a borrower to either pray for stay of the sale or setting aside the sale, in case of the borrowers willingness to pay up the dues.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)