

04.10.2023
PB
Sl. No.27.

WPA 14124 of 2023
With
CAN 1 of 2023

Biswajit Ghosh Mining and Movers
Vs
HDFC Bank Ltd. & Anr.

Mr. P.S. Bhattacharjee,
Mr. Supratim Dhar,
Mr. T. Mukherjee,
Ms. Sinthia Bala.
... For the Petitioner.

Ms. Soni Ojha.
.....For the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned notice dated 23rd March, 2023, issued by the respondent bank, under Section 13(2) of the SARFAESI Act, 2002, for realization of the demand amounting to about Rs.1.72 crores and has made prayer for granting the petitioner six month's time to make the entire payment with a view to settle the dispute. This writ petition was filed on 14th June, 2023. It appears from record that petitioner has written a letter on 19th May, 2023, to the respondent bank and on perusal of which it appears that the petitioner has agreed to pay the aforesaid amount and

asked the bank authority concerned to grant six month's time to make such payment. Pursuant to the direction of this Court dated 21st September, 2023 and 27th September, 2023, petitioner has come up before this Court with a Demand Draft of Rs.25 lakhs which is being handed over to Ms. Soni Ojha, learned advocate of the respondent bank in Court.

Mr. Bhattacharjee, learned senior advocate appearing on behalf of the petitioner submits that towards the loan in question the bank authority has already recovered around Rs.15 lakhs from the fixed deposit of the petitioner, so, according to Mr. Bhattacharjee, about Rs.40 lakhs has already been paid out of the total loan amounting to Rs.1.72 crores.

Considering the facts and circumstances of the case and submission of the parties and particularly the bona fide which the petitioner has shown by making the payment of the aforesaid amount in Court, petitioner is granted time by February, 2024 to repay the extra loan. Such payment of the balance amount must be made in four equal monthly instalments, first of such instalment must be paid within 30th November, 2023 and second one by 31st December, 2023 and the third one by 31st January, 2024 and the fourth one by 28th February, 2024. Any coercive action for recovery of the demand in question is stayed if

petitioner complies the terms and conditions indicated hereinabove. In case of default in making payment of any of the instalments, this order of protection from any coercive action will not have any force and the respondent bank will be free to proceed against the petitioner in accordance with law. This order has been passed in view of the exceptional circumstances and on humanitarian ground that the petitioner is a cancer patient under treatment in Bangalore and suffering both physically and financially. This order will not be a bar on the part of the parties to come to one time settlement.

With this observation and direction, this writ petition being WPA 14124 of 2023 and the application being CAN 1 of 2023 are disposed off.

(Md. Nizamuddin, J.)