Item No. 8
06.10.2023
Court. No. 19
GB

C.O. 3132 of 2023

ACE Graphics Trade Private Limited & Ors.
Vs.
State Bank of India & Anr.

Mr. D.K. Sengupta,
Ms. Sweta Saha
... for the Petitioners.
Mr. Snehasish Chakraborty
... for the Opposite Parties.

Heard the learned advocate for the bank. It appears to the Court that the bank had originally allowed a one-time settlement to the petitioners/borrowers, on certain terms and conditions. Such settlement failed. Thereafter, the bank issued a possession notice. The petitioner moved the learned Debts Recovery Tribunal-III, challenging such proceeding and also prayed for stay of the action taken by the bank. Such possession notice was stayed by the DRT-III, Kolkata Bench allowing the petitioners to make a further proposal. The learned DRT-III stayed the bank from taking steps under the provisions of law.

Such order was challenged by the bank before the learned DRAT and by order dated August 7, 2023, the order passed by the DRT-III, Kolkata was set aside. The order of the Debts Recovery Appellate Tribunal is under challenge before this court.

This Court was of the view that before the revisional application could be disposed of, upon hearing all the parties, no coercive steps should be taken with regard to the property in question. The petitioners had shown an inclination to pay the amount on the day the matter was moved.

Today, the bank submits that apart from Rs.8,00,000/-, no other amount was even paid by the borrower. Hence, the DRT-III could not have granted a further opportunity to the petitioners.

The learned advocate for the petitioners submits that the petitioner is willing to pay Rs.40,00,000/-, to the bank towards full and final settlement. According to the petitioners, the proposal of Rs.40,00,000/- shall be liquidated if some breathing time is given by the Court.

The learned advocate for the bank has taken instruction. As per his instructions the amount of Rs.40,00,000/- towards full and final payment must be liquidated in six monthly instalments.

Having considered the rival contentions of the parties, this Court passes the following order:-

a) The entire amount of Rs.40,00,000/- shall be liquidated within six months.
b) The petitioners have the option of paying in equal instalments or in case there is any deficit in a particular month, the said deficit amount shall be paid with the instalment of the following month.
c) Every month, some amount will have to be paid towards this Rs.40,00,000/-, which shall not be below Rs.3,00,000/-
d) No month should go by without any payment.

e) In case of default in payment on any month, the bank shall be at liberty to proceed with the SARFAESI proceedings, without any reference to any court.

Under such circumstances, the order impugned is set aside with the abovementioned direction.

Accordingly, the revisional application is disposed of.

All the proceedings pending from the SARFAESI action taken by the bank including S.A. No.409 of 2022, which is pending before the DRT-II, Kolkata stand disposed of.

The actions taken by the bank so far, is not interfered with but the bank shall not proceed until the arrangement made hereinabove is concluded, except in case of default of any of the terms stated hereinabove.

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

(Shampa Sarkar, J.)