**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(115+210) **CWP-965-2023 (O&M)**
Decided on :08.05.2023

M/s Bedi Cement Store and another

……Petitioner(s)

Versus

UCO Bank and another

…Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE GURBIR SINGH**

Present: Mr. G.S. Virk, Advocate for the petitioner (s).

Mr. Nonish Kumar, Advocate for the respondent-Bank

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G.S. Sandhawalia, J. (Oral)

CM-7241-CWP-2023

Application for placing on record reply to the petition filed on behalf of the respondent-Bank, is allowed. Same is taken on record. Office to append the same at the appropriate place.

CM stands disposed of.

CWP-965-2023 (O&M)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the securitization proceedings including notice dated 23.09.2021 (Annexure P-4) issued under Section 13 (4) of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short '2002 Act').

2. Keeping in view the outstandings in the said demand notice which was of ₹80,86,866.95 as due on 31.03.2021, the Coordinate Bench was persuaded to pass the following order on 18.01.2023:-

> "Petitioner-Firm claims to be a MSME Unit. As per averments made in the petition, the petitioners having defaulted towards

servicing the debts as regards the Bank limit of Rs. 40.00 lakhs that has been obtained in the year 2012, the loan account has been declared NPA. Thereafter, even proceedings under the SARFAESI Act, 2002 were initiated and pursuant to an application filed by the creditor under Section 14 of the Act an order has been passed by the District Magistrate concerned.

Counsel, inter alia, contends that action of the respondent authority is illegal inasmuch as the RBI guidelines and the circular issued vide notification dated 17.03.2016 providing for a framework for revival and rehabilitation of MSMEs has not been followed. No proposal had been forwarded to the duly constituted Committee envisaged under the RBI guidelines and without following such mandate, the loan account could not have been declared as NPA.

As per counsel the total outstanding amount as of date would be to the tune of Rs. 80.00 lakhs approximately. Counsel furnishes an undertaking that 50% of such amount, i.e. Rs. 40.00 lakhs, would be deposited with the respondent-UCO Bank within a period of one week from today.

Issue notice of motion returnable for 08.05.2023.

Dispossession of the mortgaged property which is in the nature of shop cum dwelling unit is stayed till the next date of hearing.

It is made clear that in case the petitioners default in making the deposit of Rs. 40.00 lakhs within the stipulated time period, the interim protection would automatically stand vacated."

3. It is stated that the said order has been complied with. However, in CM-7242-CWP-2023, it has been clarified that there are further outstandings to the tune of ₹2,04,32,943.91 against various accounts.

4. Keeping in view the above, since admittedly matter is already pending before the Debts Recovery Tribunal in SA No.178 of 2022 as pleaded in paragraph No.19 of the petition, we dispose off the present writ petition with liberty to the petitioner to file an appropriate application before the Tribunal for continuation of the interim relief, so that the Tribunal can put appropriate terms and conditions, in case the petitioner wishes to settle the

account. However, it is clarified that since substantial amount has been deposited by the petitioner, the interim protection granted by this Court shall continue to operate till 31.07.2023. Requisite application be filed before the Tribunal before the said date.

5. Resultantly, the present writ petition stands disposed of with the abovesaid observations. All pending application (s) if any also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

(GURBIR SINGH)
08.05.2023 **JUDGE**
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No