IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2024:PHHC:076315-DB

(213) **CWP-4558-2021**
Date of Decision: 28.05.2024

Guru Gobind Digital Colour Lab & others --Petitioners

Versus

DCB Bank Ltd. & others --Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL.
HON'BLE MS. JUSTICE AMARJOT BHATTI.

Present:- Mr. Nonish Kumar, Advocate for petitioners.

Mr. Ish Karan Singh Chhabra, Advocate for respondents no.1 and 2.

Mr. Deepak Grewal, DAG, Haryana.

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LISA GILL.J (Oral)

Prayer in this petition is for setting aside order dated 18.12.2018 (Annexure P-3) passed by District Magistrate, Karnal under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short SARFAESI Act).

2. Petitioners have raised number of grounds in this petition including challenge to declaration of their accounts Non Performing Assets (NPA) as well as subsequent proceedings under the SARFAESI Act to be illegal and arbitrary.

3. Notice of motion was issued in this writ petition on 25.02.2021 while recording that out of the outstanding amount of Rs.25,33,641.15 the petitioners would deposit a sum of Rs.12 lakhs within two weeks. It was directed that status quo regarding possession as it existed on that day would be maintained. It was thereafter recorded by the Coordinate Bench on

18.03.2021 that after deposit of sum of Rs.12 lakhs petitioners are willing and interested to pay the remaining amount as well for which the respondent-Bank would be approached.

4. Learned counsel for respondents informs that the said amount of Rs.12 lakhs was adjusted qua the loan account which was regularized/ made standard, however, thereafter the petitioners have not deposited any further amount and neither approached the respondent-Bank for any kind of statement. It is submitted that the present petition challenging proceedings under SARFAESI Act in any case is rendered infructuous because petitioners' account was regularized/made standard after deposit of sum of Rs.12 lakhs, however, due to subsequent default in payment, account was again declared N.P.A on 22.11.2022. However, notice under Section 13(2) of SARFAESI Act has not been issued as yet due to the interim order passed in this writ petition.

5. Learned counsel for petitioners does not deny that after deposit of sum of Rs.12 lakhs subsequent to order dated 25.02.2021 no further amount has been deposited by the petitioners though it is submitted that petitioners had approached the respondent-Bank. Learned counsel is unable to indicate any proposal submitted by petitioners for One Time Settlement (OTS).

6. Be that as it may, present writ petition is indeed rendered infructuous, in the abovesaid factual matrix because as of now, notice under Section 13(2) has not yet been issued. There is no merit in the argument raised by learned counsel for petitioners that present writ petition should be kept pending in case petitioners are aggrieved of any further

proceedings initiated by respondents under SARFAESI Act statutory remedy(ies) are available to petitioners.

7. Writ petition is, accordingly, disposed of as infructuous at this stage with liberty to petitioners to avail the statutory remedy/(ies) available to them in accordance with law in case of proceedings initiated against them by the respondent-Bank under SARFAESI Act, at the appropriate stage. There is no expression of opinion on merits of this controversy.

(LISA GILL)
JUDGE

28.05.2024
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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No