

2024:PHHC:035100-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-29376-2023
Date of Decision: March 12, 2024

GURPREET SINGH MANN Petitioner

Versus

KARNATAKA BANK LTD. Respondent

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

Present: Mr. Vijiyesh Malhotra, Advocate for the petitioner.
Mr. S.K. Dhir, Advocate for the respondent.

LISA GILL, J.

1. Prayer in this writ petition is for setting aside notice dated 18.01.2022 (Annexure P1) under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’) and notice dated 04.01.2023 (Annexure P2) under Section 13(4) of SARFAESI Act.
2. It is submitted that petitioner and his ex-wife created a partnership Firm on 05.08.2015. Two credit facilities were availed of. However, there was unfortunate divorce between petitioner and his wife on 02.08.2019. Due to situation, which arose on account of outbreak of pandemic COVID-19 as well as divorce between petitioner and his wife, renewal of OD facility could not be carried out. Difficulty was duly intimated to the Bank, however, account of the Firm was declared Non Performing Asset on 31.03.2021. Proceedings under

SARFAESI Act were initiated. Notice under Section 13(2) of SARFAESI Act was issued on 18.01.2022 calling upon the borrower to deposit sum of Rs.40,05,359.79 as on 17.01.2022. Notice under Section 13(4) of SARFAESI Act was issued on 04.01.2023. Proposal for One Time Settlement (OTS) was submitted by petitioner on 26.07.2023 and thereafter on 05.08.2023 alongwith deposit of Rs.10 lakhs. Petitioner yet again submitted proposal for OTS on 22.11.2023. Learned counsel for petitioner submits that exorbitant rate of interest has been charged by the respondent. However, complaint filed by petitioner in respect to rate of interest was dismissed by Ombudsman (RBI). Proceedings under SARFAESI Act, it is contended, are absolutely illegal, arbitrary and in complete violation of provisions of SARFAESI Act.

3. Learned counsel for respondent – Bank has opposed this writ petition while firstly raising objection qua entertainability of the writ petition itself, keeping in view the specific provision of SARFAESI Act. It is further submitted that proceedings under SARFAESI Act are in complete consonance with provisions thereof and that as of now total outstanding amount against the Firm is Rs.18,86,499.73.

4. At this stage, learned counsel for petitioner submits that petitioner is ready and willing to deposit the said amount by 31.03.2024. Learned counsel for respondent – Bank, on instructions from Mr. Rohit, Branch Manager, Karnataka Bank, Sector 32, Chandigarh submits that in case, above said amount is deposited by petitioner by 31.03.2024, account of the Firm in question would stand settled.

5. In view of the consensus, which has been arrived at between the parties, this writ petition is disposed of without expression of any opinion on the merits of matter. Needless to say, in case amount, as stated above, is deposited by petitioner by 31.03.2024, account of the Firm in question would stand closed and necessary No Due Certificate would be issued and the title documents would be released in view of consensus as above.

(LISA GILL)
JUDGE

March 12, 2024
Rts

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No