(2018) 08 UK CK 0019

In the Uttarakhand High Court

Case No : Special Appeal No. 597 of 2018

M/s Durga Dairy Farm & Other APPELLANT

Vs

Oriental Bank of Commerce & others RESPONDENT

Date of Decision : 03-08-2018

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 17

Citation : (2018) 08 UK CK 0019

Hon'ble Judges : K.M. JOSEPH, C.J;SHARAD KUMAR SHARMA, J

Bench : Division Bench

Advocate : Vikas Bahuguna, S.K. Jain, Siddharth Jain

Final Decision : Disposed Of

Judgement

K.M. JOSEPH, C.J. (ORAL)

SHARAD KUMAR SHARMA, J.

1. Appellants are the writ petitioners. Appellants availed a term loan and cash credit facility from respondents-bank. There was a default committed.

This led to a proceeding before the Debts Recovery Tribunal, Dehradun by way of OA No. 209 of 2007. The Debts Recovery Tribunal, on the

Application of the Bank, passed an award of Rs. 2,29,30,929.79 (Rupees Two Crores Twenty Nine Lacs Thirty Thousand Nine Hundred Twenty

Nine rupees and Seventy Nine paisa Only) against the appellant.

2. Appellants challenged the order dated 05.04.2018 passed by the Debts Recovery Tribunal, Dehradun and they also sought the benefit of instalment

facility by filing a writ petition. In the said writ petition, apparently, the appellants did not press a challenge against the order passed by the Debts

Recovery Tribunal, but instead appellants limited themselves to the request of facility for payment of amount due to be paid in instalments. This Court

directed the appellants to deposit a sum of Rs. 20 lacs and to move the Bank.

3. Complaining that though the appellants complied with the condition of deposit of Rs. 20.00 lakh and the benefit of the settlement of the loan, prayed

for, was not granted, the bank rejected the same by order dated 04.07.2018, the appellants also filed the present writ petition against the said order.

The learned Single Judge relegated the appellants to avail remedy under Section 17 of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 (hereinafter referred to as the Act). Thereafter, the learned Single Judge dismissed the writ petition.

Hence, the Appeal.

4. We have heard Mr. Vikas Bahuguna, learned counsel on behalf of the appellants. Also we heard Mr. S.K. Jain, learned Senior Counsel on behalf

of the respondent Bank.

5. Learned counsel for the appellants, in fact, would submit that the appellants may be permitted to pay off the amount in instalments of Rs. 12 lakhs

per month. Mr. S.K. Jain, learned Senior Counsel on behalf of the respondent Bank would submit based on the instructions received from bank

officials, that if the appellants pays off 25% of the remaining amount to be paid within a period of one month and if the appellants continue to pay off

the balance amount remaining to be paid in monthly instalments, the proceedings can be ordered to be kept in abeyance.

6. In such circumstances, we dispose of the Appeal as follows:

If the appellants pays 25% of the amount remaining to be paid within a period of one month from today with the Bank and thereafter pays off the

balance amount to be paid with due interest in monthly instalments of Rs. 15 lacs per month, the proceedings for recovery will be kept in abeyance. In

order that there may be no dispute arising as to the exact amount which will be 25%, the respondent-Bank will, within a period of one week from

today, intimate the appellants regarding the exact amount, which will represent 25% of the balance amount as aforesaid and it is for the appellants to

avail the aforesaid facility. In case, the appellants pay off 25% of the amount remaining to be paid as intimated and continue to pay the monthly

instalments of Rs. 15 lakh without fail, proceedings will be kept in abeyance. In case the appellants do not pay either 25% of the amount remaining

amount to be paid within a period of one month as aforesaid or any of the instalments, the respondent-Bank will be free to proceed against the

appellants in accordance with law. The first instalment, after paying the amount representing 25%, will be paid on or before 10.10.2018. Further

monthly instalments should be paid in the succeeding months on or before 10th.

7. Let a certified copy of this order be issued today itself.

