(2018) 10 P&H CK 0320

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 13346 Of 2018

M/S Laddi Diary And Others — APPELLANT

Vs

District Magistrate, Gurdaspur And Another — RESPONDENT

Date of Decision : 22-10-2018

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 13, 13(2), 13(4), 14

Citation : (2018) 10 P&H CK 0320

Hon'ble Judges : Ajay Kumar Mittal, J;Avneesh Jhingan, J

Bench : Division Bench

Advocate : Nakul Sharma, Jaspreet Kaur, Kps Dhillon

Judgement

1. The present writ petition has been filed seeking quashing of the proceedings initiated under Sections 13 and 14 of the Securitisation and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. Petitioner No.1 is a proprietorship concern; petitioner No.2 is the proprietor; petitioner No.3 is a co-borrower and petitioners No.4 to 6 are

guarantors of the loan facilities availed.

3. The District Magistrate, Gurdaspur, District Gurdaspur; UCO Bank, having its head office at 10-BTM Sarani, Kolkata and having one of its branch

at G.T. Road Batala, District Gurdaspur through its Chief Manager, have been arrayed as respondents No.1 and 2 respectively, in this writ petition.

3. Petitioner No.1 availed a cash credit facility of Rs.5,00,000/- and a term loan of Rs.4,90,000/- from the respondent-Bank. Petitioners No.2 and 3

also availed a term loan of Rs.8,00,000/-, which was to be repaid in 120 Equal Monthly Installments (EMIs) of Rs.10,683/- each. Petitioners No.2 and

3 availed another term loan of Rs.10,00,000/-, which was to be repaid in 180 Equal Monthly Installments (EMIs) of Rs.10,869/- each. In order to

secure the credit facilities availed, petitioners mortgaged the following property:

â??Commercial-cum-Residential building 805 sq. ft or say 3 marla under khasra No. 3R/19/1/1/10-3, situated at Faizpura Dera Baba Nanak Road

Batala, Hadbast No. 213, Tehsil Batala, District Gurdaspur, in the name of of S. Bhupinder Singh s/o later S. Jagir Singh, Smt. Sukhwinder Kaur w/o

S. Bhupinder Singh, S. Gagandeep Singh s/o S. Sukhwinder Singh, S. Lovejeet Singh s/o S. Sukhwinder Singh & Smt. Ramandeep Kaur w/o S.

Sukhwinder Singhâ??

4. The petitioners failed to maintain the financial discipline, consequently, respondent No.2-Bank issued notices dated 18.03.2016 under Section 13(2)

of the Act. As per notices, there was an outstanding amount of Rs.22,92,171/- against the loan availed by petitioner No.1. As per another notice dated

27.10.2016 issued by respondent No.2 under Section 13(2) of the Act, there was an outstanding amount of Rs.15,04,144/- in respect of two term loan

accounts availed by petitioners No.2 and 3. Thereafter, a notice dated 11.01.2017 under Section 13(4) of the Act was issued.

5. The respondent No.2 filed an application under Section 14 of the Act. Vide order dated 31.08.2017, respondent No.1 allowed the aforesaid

application and ordered that police help be provided to the Bank for getting possession of the mortgaged property. Aggrieved of the recovery

proceedings, present petition has been filed.

6. On 24.05.2018, learned counsel for the petitioners contended that the Bank has also filed a suit before the Debt Recovery Tribunal for recovery of

sum of Rs.41,00,000/- approximately. Notice of motion was issued. In the meanwhile, it was ordered that the petitioners be allowed to submit their

proposal for One Time Settlement (OTS) to the respondent-Bank alongwith an upfront amount of Rs.5,00,000/- within two weeks from that day and

the Bank was to consider their proposal as per its policy and convey its decision to them.

Status-quo regarding physical possession of the secured asset was also ordered to be maintained.

7. Heard learned counsel for the parties.

8. Learned counsel for the petitioners submitted that the petitioners have already

deposited a sum of Rs.5,00,000/- in terms of order dated 24.05.2018.

He further submitted that the petitioners are ready and willing to settle the credit facilities availed.

9. Learned counsel for respondent No.2-Bank argued that though an amount of Rs.5,00,000/- has been deposited by the petitioners but no proposal for

'OTS' has been submitted by them.

10. Without expressing any opinion on the merits of the case and in view of the facts of the case, instant petition is disposed of with the following

directions:

(i) Petitioners shall approach respondent No.2-Bank within one month from today with a proposal of 'OTS'. Alongwith the proposal, petitioners shall

deposit another sum of Rs.5,00,000/-.

(ii) Respondent No.2-Bank on receipt of proposal shall decide the same in accordance with law, after affording an opportunity of hearing to the

petitioners by passing a speaking order. The decision on the proposal shall be taken at the earliest but not later than one month from the receipt of

proposal;

(iii) It is clarified that in case, the petitioners fail either to submit their proposal within time specified or to deposit an amount of Rs.5,00,000/- along-

with the proposal, respondent No.2-Bank would be at liberty to proceed in accordance with law;

(iv) At the time of issuance of notice of motion, status-quo regarding physical possession of the secured asset was ordered to be maintained. The said

interim protection shall continue till the decision is taken by respondent No.2-Bank on the proposal submitted by the petitioners;

(v) However, it is clarified that extension of interim protection shall not be construed as an expression of opinion on the merits of the case by this

Court.

