(2022) 02 SHI CK 0018

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 618 Of 2022

Raj Kumar APPELLANT

Vs

Authorized Officer And Others RESPONDENT

Date of Decision : 09-02-2022

Acts Referred:
Constitution Of India, 1950 — Article 226

Citation : (2022) 02 SHI CK 0018

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Arun Raj, Khem Raj, Thakur

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. This petition is being entertained in view of order dated 16.12.2021 passed by Honâ??ble Apex Court in Special Leave to Appeal (C) No. 10911

of 2021, titled State Bar Council of Madhya Pradesh v. Union of India, wherein, inter alia, following was observed:

â??With a view to resolve the problem being faced by the parties, for the time being and purely as a stop-gap arrangement, we request the concerned

High Court(s) to entertain the matters falling within the jurisdiction of DRTs and DRATs under Article 226 of the Constitution of India, till further

orders.

We make it clear that once the Tribunal(s) is/are constituted, the matters can be relegated to the Tribunals by the High Court(s).â??

2. The case as set up by the petitioner is that the respondents-bank had sanctioned term loan of Rs. 10,00,000/-in his favour during the year 2013. The

loan amount was obtained by the petitioner for marriage of his daughter and for renovating his house. The loan was to be re-paid in monthly

installment of Rs. 10,000/-. By 5.2.2020 the petitioner had re- paid an amount of Rs.7,14,520/-. On 7.12.2021, the respondents issued notice for taking

physical possession of petitionerâ??s immovable property mortgaged in lieu of the loan. Immediately thereafter i.e. on 15.12.2021, petitioner

deposited further amount of Rs. 2,00,000/- with the respondents- bank. In this manner, the petitioner till date has re-paid total amount of Rs. 9,14,520/-

towards the loan account.

After depositing Rs. 2,00,000/- with the respondents- bank on 15.12.2021, the petitioner represented to them on 16.12.2021 (Annexure P-3) expressing

his intention to settle the entire loan account by selling his property/borrowing from his friends and requested the bank to consider his proposal for

compromise settlement as per the applicable policy of the bank. The representation was not considered by the respondents. This led the petitioner to

institute Civil Writ Petition No. 517 of 2022 in this Court. The said writ petition was dismissed as withdrawn on 28.1.2022 in view of the fact that

SA/9/2022 filed by the petitioner on 25.1.2022 before the Debt Recovery Tribunal, Chandigarh was tentatively fixed for listing on 31.1.2022. Liberty

was granted to the petitioner to file fresh petition at appropriate stage, if need so arises in future.

The order dated 31.1.2022 passed in SA/9/2022 has been placed on record, whereby the matter stands adjourned to 02.03.2022 awaiting the order of

extension of additional charge of the Presiding Officer from DRAT/DFS.

Since the matter has not proceeded before the learned Debt Recovery Tribunal, Chandigarh due to its non-functioning, the petitioner has instituted

instant petition for quashing and setting aside of possession notice dated 7.12.2021 and for directing the bank to consider petitionerâ??s proposal

dated 16.12.2021 for compromise as per policy of the bank.

As observed above, the petition is being entertained in view of the order passed by the Honâ??ble Apex Court on 16.12.2021 in SLA (C) No. 10911

of 20221.

3. I have heard learned counsel for the parties and gone through the case file. Learned counsel for the petitioner submits that the petitioner is ready

and willing to settle his entire loan account provided he is given some reasonable time to do that and the Bank may consider his proposal at Annexure

P-3 for compromise settlement in terms of its policy. Learned counsel for the respondents/bank is not averse to adopting this course.

Having regard to the submissions made by learned counsel for the parties and without expressing any opinion on the merits of the matter, this writ

petition is disposed of by permitting the petitioner to deposit an amount of Rs. 2,00,000/-with the respondents-bank within a period of two weeks from

today to show his bonafides, whereafter representation dated 16.12.2021 (Annexure P-3) preferred by the petitioner shall be considered by the

respondent-bank in accordance with its applicable policy for compromise settlement within a period of one month thereafter. In case the petitioner

deposits the amount, as aforesaid, then no coercive action shall be taken by the respondents-bank against him till the decision of Annexure P-3.

Pending miscellaneous application(s), if any, shall also stand disposed of.