(2010) 05 AHC CK 0384

In the Allahabad High Court

Case No : C.M.W.P. No. 25022 of 2010

Ram Awadh Gupta — APPELLANT

Vs

Authorised Officer/Asstt. General Manager S.B.I. and Another — RESPONDENT

Date of Decision : 20-05-2010

Acts Referred:

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

Citation : (2011) 3 AWC 2605

Hon'ble Judges : Subhash Chandra Nigam, J;Satya Poot Mehrotra, J

Bench : Division Bench

Judgement

Satya Poot Mehrotra and Subhash Chandra Nigam, JJ.—We have heard Shri Neeraj Kumar Srivastava, learned Counsel for the Petitioner and Shri A.C. Tiwari, learned Counsel for the Respondent Nos. 1 and 2.

2. The Petitioner had taken loan from the Respondent No. 2-State Bank of India for housing purposes. It appears that the Petitioner defaulted in payment of instalments, and therefore, proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 have been initiated against the Petitioner. Notice dated 31.3.2010 (Annexure-3 to the writ petition) purporting to be u/s 13(2) of the said Act has been published in the Newspaper. The name of the Petitioner appears at Item No. 3 in the said notice.

3. Learned Counsel for the Petitioner states that the Petitioner is ready to deposit the amount mentioned in the said notice as due from the Petitioner with up-to-date interest in instalments. He further states that the Petitioner will deposit Rs. 1,50,000 (Rupees one lac fifty thousand) within six weeks from today, and as regards the balance amount, the Petitioner will deposit the same in instalments as fixed by the Court.

4. Sri. A.C. Tiwari, learned Counsel for the Respondent Nos. 1 and 2 has no objection to the aforesaid proposal.

5. In the circumstances, the present writ petition is disposed of finally with the following directions:

(i) The Petitioner will deposit an amount of Rs. 1,50,000 (Rupees one lac fifty thousand) with Respondent No. 2 within six weeks from today.

(ii) As regards the balance remaining after the aforesaid deposit, the same will be deposited with up-to-date interest in three equal quarterly instalments as under:

? First instalment by 28th August, 2010.

? Second instalment by 28th November, 2010.

? Last/Third by 21st February, 2011.

(iii) This order will not affect any auction or sale, which may already have taken place.

(iv) If the Petitioner deposits the instalments with up-to-date interest, as fixed by this Court, in time, the notice dated 31.3.2010 shall be kept in abeyance but if the Petitioner fails to comply with any of the conditions, as mentioned above, this order shall stand automatically vacated and the Respondents will be at liberty to proceed against the Petitioner in accordance with law.

(v) After all the aforesaid deposits are made with up-to-date interest, as fixed by this Court, in time, the Notice dated 31.3.2010 as against the Petitioner will stand discharged, and the proceedings under the aforesaid Act as against the Petitioner will be dropped.

(vi) This order will not be applicable if the Petitioner has filed any earlier writ petition challenging the recovery of this loan.