(2013) 04 JH CK 0022

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1680 of 2013

Rashmi Mehta — APPELLANT

Vs

Sri Kishori Mohan Deka and Another — RESPONDENT

Date of Decision : 05-04-2013

Acts Referred:

Citation : (2013) 04 JH CK 0022

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Binay Kr. Pathak, for the Appellant; Praveen Jaiswal, for the Respondent

Final Decision : Disposed Off

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. The petitioner has come before this court on the apprehension that her secured assets may be taken possession of by the respondent Bank invoking the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (In short ''SARFAESI Act of 2002'').

2. The petitioner had submitted on the last occasion that she is inclined to pay the outstanding amount of Rs. 20,68,966.08, as on 19th September 2012, if she is permitted to pay the same in easy installments within a period of three months. On such submission, counsel for the respondent Bank was allowed time to seek specific instruction as to whether an arrangement for making payments of the outstanding dues can be arrived at with the consent of the Bank.

3. Today, a counter affidavit has been filed on behalf of the respondent Bank. At para-20 of the counter affidavit, it has been stated that the outstanding dues remaining against the petitioner with interest and other charges calculated as on 5th of April 2013 is Rs. 23,46,491/- with applicable future interest @12.75% Per Annum. It is stated on behalf of the respondent Bank that if the petitioner is ready to pay the outstanding dues as aforesaid in three monthly installments i.e.

Rs. 8,25,247/- on or before 30th April 2013, Rs. 7,87,410/- on or before 31st May 2013 and Rs. 7,78,256/- on or before 28th June 2013 totalling Rs. 23,90,913/-, as per the detail calculation chart annexed as annexure-C to the counter affidavit, the Bank is agreeable to the offer of the petitioner to clear the outstanding dues in easy installments.

4. Counsel for the petitioner however seeks four months time instead of three months for clearing the outstanding dues and submits that the Bank may consider her representation to charge interest as per the rates declared by the RBI guidelines on Non Performing Asset (NPA). Be that as it may, the petitioner has approached this court bye-passing the alternative remedy of appeal available under the SARFAESI Act of 2002 before the appellate forum when the Bank is seeking to invoke the provisions of the Act for taking possession of the secured assets of the petitioner for having defaulted in payment of the loan amounts. The matters was adjourned on the last date on the undertaking of the petitioner to pay the outstanding dues in easy installments within a period of three months. The respondent Bank responded to such offer as aforesaid by agreeing to accept the payment of the outstanding loan amount along with interest as on 5th of April 2013 of Rs. 23,46,491/- with applicable future interest @12.75% in the next three monthly installments, as per the calculation chart. In such circumstances, no further concession can be given to the petitioner to clear the outstanding dues. The petitioner in such circumstances shall make payment of the outstanding dues as indicated by the Bank herein above in three monthly installments on the respective dates i.e. 30th April 2013, 31st May 2013 and 28th June 2013 of Rs. 8,25,247/-, Rs. 7,87,410/- and 7,78,256/- respectively totalling Rs. 23,90,913/-.

It is made clear that if the petitioner makes the aforesaid payments within the period stipulated, she is allowed to prefer a representation thereafter for seeking refund of the interest amount charged on her outstanding amounts, as claimed by her, on the basis of the RBI guidelines applicable to such Non Performing Assets. On such representation, the Bank shall take an informed decision by passing a reasoned and speaking order within a reasonable time. It is however made clear that if the petitioner fails to make the aforesaid payments in the installments, as indicated herein above, the Bank would be entitled to undertake all such steps as available to it under the SARFAESI Act of 2002 for realization of its dues.

The writ petition is disposed of in the aforesaid terms.