(2011) 04 AHC CK 0490

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 24731 of 2011

Shesh Narain and Sons, Budaun APPELLANT

Vs

District Magistrate and Others RESPONDENT

Date of Decision : 28-04-2011

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2011) 5 ADJ 400 : (2012) 1 AWC 471 : (2012) 1 BC 87 : (2011) 8 RCR(Civil) 2991

Hon'ble Judges : S.P. Mehrotra, J;Rajesh Chandra, J

Bench : Division Bench

Judgement

1. As per the averments made in the Writ Petition, the Petitioner took Cash Credit Facility for business purposes from the Respondent No. 4-Bank of Baroda in the year 2005. The Petitioner committed default in the said facility. Consequently, proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "the Securitization Act") have been initiated against the Petitioner.

2. We have heard Shri Vishwa Pratap Singh, learned Counsel for the Petitioner, the learned Standing Counsel appearing for the Respondent Nos. 1,2 and 3 and Shri Manish Mehrotra, learned Counsel for the Respondent No. 4- Bank of Baroda.

3. In United Bank of India Vs. Satyawati Tondon and Others, their Lordships of the Supreme Court have laid down that in view of the alternative remedy available under the Securitization Act, the High Court in exercise of Writ Jurisdiction under Article 226 of the Constitution of India should normally not interfere in respect of the proceedings being taken under the said Act.

4. Shri Vishwa Pratap Singh, learned Counsel for the Petitioner, however, states that the Petitioner does not want to question the merits of the proceedings being taken under the Securitization Act and wants to pay the entire outstanding dues with interest and expenses on pro-rata basis in case reasonable time is given to

the Petitioner for making the deposit in instalments.

5. Shri Manish Mehrotra, the learned Counsel for the contesting Respondent-Bank states that the contesting Respondent-Bank has no objection to the above prayer made on behalf of the Petitioner provided the Petitioner deposits an amount of Rs. 50,000/- within one month from today and further balance amount in two equal quarterly instalment.

6. In view of the above, we dispose of the Writ Petition with the consent of the learned Counsel for the parties, without going into the merits of the controversy involved in the Writ Petition, by giving the following directions:

1. The Petitioner will clear-off the entire outstanding dues alongwith interest, penal interest and expenses on pro-rata basis.

2. The entire outstanding dues shall be paid in three instalments. The first instalment of Rs. Rs. 50,000/- shall be paid within one month and, thereafter, the remaining amount will be paid in two equal quarterly instalments.

3. Initially the recovery proceedings are stayed for a month. On depositing the first instalment, impugned proceedings shall remain stayed upto the date of next instalment and the process shall continue until the last instalment has been paid.

4. If the Petitioners deposit the entire amount as undertaken by the Petitioner in the manner indicated above, the proceedings shall stand withdrawn.

5. If the Petitioner fails to deposit the amount of any one instament within the stipulated period, the Bank shall be at liberty to proceed in accordance with law.

6. The cost and recovery charges, if any, shall be paid alongwith the last instalment.

7. It is made clear, that this order has been passed on the statements made by the learned Counsel for the Petitioner as well as the learned Counsel for the Bank, and we have not adjudicated the claim on merits.

8. The Writ Petition is disposed of with the aforesaid directions and observations.