Ramesh Kumar Sahu Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Apr-01-2011

Judge : Satya Poot Mehrotra; Rajesh Chandra, JJ.

Acts : Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI), 2002 ; Constitution of India - Article 226

Appeal No. : WRIT - C No. - 18878 of 2011

Appellant : Ramesh Kumar Sahu

Respondent : State of U.P. and Others

Advocate for Def. : C.S.C.; Smt. Archana Singh, Advs

Advocate for Pet/Ap. : Archana Mishra, Adv

Judgement :

1. The petitioner took Cash Credit Facility for business purposes from the respondent no. 2-State Bank of India.

2. The petitioner committed default in respect of the said facility.

3. Consequently, the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short " the Securitisation Act") have been initiated against the petitioner.

4. We have heard Mrs. Archana Mishra , learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent no. 1 and Smt. Archana Singh, learned counsel for the respondent nos. 2 and 3, and have perused the averments made in the Writ Petition.

5. In United Bank of India v. Satyavati Tandon & others reported in 2010 (8) SCC 110, 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.

6. Mrs. Archana Mishra, learned counsel appearing 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 him for making the deposit in instalments.

7. The learned counsel appearing for the contesting respondent-Bank has no objection to the above prayer made on behalf of the petitioner.

8. 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 along-with 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. 2 lacs shall be paid within a month from today, 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 proceeding shall remain stayed up to the date of next instalment and the process shall continue until the lastinstalment has been paid.

4. If the petitioner deposits 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 instalment 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 along-with the last instalment.

9. 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.

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