

Ritika Gupta vs State Bank Of India on 13 October, 2020

Author: Jayant Nath

Bench: Jayant Nath

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 396/2020
RITIKA GUPTA Petitioner
Through Mr.Bankey Bihari, Adv.

versus

STATE BANK OF INDIA Respondent
Through Mr.Amrendra Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH
ORDER

% 13.10.2020 This hearing is conducted through Video-Conferencing. CM No.23867/2020

1. This application is filed by the petitioner seeking extension of six months' time to the applicant/petitioner to comply with the order dated 16.06.2020 passed by this court.

2. On 16.06.2020, this court passed the following order:-

"CM APPL. No.12566/2020

1. This hearing is conducted through video-conferencing.

2. This application is filed by the petitioner seeking extension of time in regard to the payment of the settled loan amount in terms of the order dated 16.01.2020 passed by this court.

3. On 16.01.2020, this writ petition was disposed of with the following directions:

"4. Learned counsel for the parties agree that the matter can be disposed of on the following terms and conditions:

(i) The balance sum of Rs.58,00,000/- will be paid by the petitioner to the SBI in the following manner:

(a) Rs.5,00,000/- will be paid on or before 20.02.2020.

(b) Rs.10,00,000/- will be paid on or before 20.03.2020.

(c) Rs.10,00,000/- will be paid on or before 20.04.2020.

(d) Rs.20,00,000/- will be paid on or before 20.05.2020.

(e) The balance amount of Rs.13,00,000/- along with interest (simple) at the rate of 6% on reducing balance will be paid on or before 30.06.2020.

(ii) It is clarified that, in the first instance, the interest will be calculated at the aforementioned rate on Rs.73,00,000/-. This interest will run from 08.11.2019.

(iii) In case, the petitioner defaults in the repayment schedule, agreed to above, the SBI will be entitled to claim the entire amount after adjusting the amounts paid as per the contractual terms.

(iv) The SBI will also have liberty to take recourse to other provisions of law including possession of the concerned secured asset under The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002."

4. It is pleaded in the present application that the petitioner is running a business under the name and style of M/s Keshav Industries, which is duly registered under the Micro, Small and Medium Enterprises Development Act, 2006. It is stated that the business has suffered huge financial losses like that of others in the preceding two and a half months. It is stated that in the preceding two and a half months there has been no income at all for the petitioner. Reference is made to a circular dated 22.05.2020 issued by the RBI where financial institutions have been asked not to process repayment instalments from its customer uptill 31st August, 2020. Based on the above, an extension of time is sought for payment of the instalments as were agreed upon by order of the court dated 16.01.2020.

5. It has been pointed out by the learned counsel for the petitioner that the petitioner has paid to SBI the first instalment of Rs.5,00,000/- that was to be paid on or before 20.02.2020 and the second instalment of Rs.10,00,00/- that was to be paid on or before 20.03.2020. He submits that extension is sought for balance three instalments.

6. Learned counsel for the respondent/SBI has opposed the present application. He has pointed out that circular in question dated 22.05.2020 has no application to the facts of the petitioner in view of the fact that SARFAESI proceedings had already been commenced prior to filing of this writ petition. He further states that the petitioner had given an undertaking to abide by the stated instalments.

7. In my opinion, there is substance in the submission of the learned counsel for the petitioner. It is a matter of fact that on account of the lockdown that took place in March/April/May and the current

pandemic situation, most establishments have financial difficulties. In my opinion, this is a fit case for grant of extension of time for payment of the instalments that were agreed upon vide order dated 16.01.2020.

8. In the facts and circumstances, an extension of time for making payment of balance three instalments is granted to the petitioner as follows:

(i) The sum of Rs.10,00,000/- will now be paid on or before 20.09.2020 (previously this was payable by 20.04.2020);

(ii) Another sum of Rs.20,00,000/- will now be paid on or before 20.10.2020 (previously this was payable by 20.05.2020);

(iii) The balance amount of Rs.13,00,000/- along with interest (simple) at the rate of 6% on reducing balance shall now be paid on or before 30.11.2020 (previously this was payable by 30.06.2020); and

(iv) All other terms and conditions as stated in the order dated 16.01.2020 shall remain intact subject to the aforesaid modifications/consequential modifications.

9. With the above directions, the present application stands disposed of."

3. It has been pleaded by the learned counsel for the petitioner that the petitioner is ready and willing to pay the entire dues of the respondent but on account of the present Pandemic/lockdown, she is having some difficulty. Hence, he requests that the instalments be postponed by six months.

4. When the matter came up for hearing on the last date i.e. 25.09.2020, this court directed the petitioner to pay a sum of Rs. 5 lakhs within one week. I am informed that the petitioner has paid the said sum of Rs. 5 lakhs to the respondent.

5. Learned counsel for the respondent has opposed the present application saying that the petitioner is in violation of the undertaking given to this court on 16.01.2020. It is further stated that enough indulgence has been given to the petitioner and that permission should be given to the respondent Bank to take steps under the SARFAESI Act against the mortgaged property.

6. Purely in the interest of justice and keeping into account, the present pandemic/lockdown and also taking into account the bona fide of the petitioner who has complied with the order dated 25.09.2020, the instalments as directed in the order dated 16.06.2020 are modified as follows:-

(i) The sum of Rs.5,00,000/- will now be paid on or before 05.11.2020 (previously this was payable by 20.09.2020);

(ii) Another sum of Rs.20,00,000/- will now be paid on or before 05.12.2020 (previously this was payable by 20.10.2020);

(iii) The balance amount of Rs.13,00,000/- along with interest (simple) at the rate of 6% on reducing balance shall now be paid on or before 15.01.2021(previously this was payable by 30.11.2020); and

(iv) All other terms and conditions as stated in the order dated 16.01.2020 shall remain intact subject to the aforesaid modifications/consequential modifications.

7. The application is disposed of. It is made clearly that the petitioner shall not be entitled to any further indulgence.

JAYANT NATH, J OCTOBER 13, 2020 rb