

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

OWP No.1232/2013
IA No.1712/2013

M/s Hotel Sukrala

....Petitioner(s)/Appellant(s)

Through :- Mr. R.P Sangra, Advocate.

V/s

State of Jammu and Kashmir and others

....Respondent(s)

Through :- Mr. Sumeet Bhatia, GA.

Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE

ORDER
24.02.2023

(Oral)

1. Through the medium of this petition, the petitioner seeks a direction to quash order dated 29.08.2013 by virtue of which, the petitioner's firm has been called upon to deposit the loan amount along with interest under the provisions of State Financial Corporation Act which will include taking over possession of the unit and subsequent auction thereof without any further reference.

2. The brief facts of the case are that:

The petitioner approached the Tourism Department with relevant documents for construction of hotel at Village Sukrala, Tehsil Billawar District Kathua and the tourism department approved the project by sanctioning Rs.52.44 lakhs, which was supposed to be raised from the financial institution. Thereafter, the Chief Manager, State Financial Corporation, Hatli Morh, Kathua-the respondent No.3, out of the approved sanction amount, released 15 lakhs for constructing hotel. As per petitioner, this amount was too less, however, under the name and style of M/s Hotel Sukrala at Village Sukrala Tehsil Billawar, Kathua, the petitioner started construction and thereafter requested respondent No.3 number of times to release the balance approved sanctioned amount but the

respondent No.3 did not pay any heed over the requests of the petitioners, which resulted in failure of setting up and constructing the hotel as the petitioner could not arrange the finance. Due to this, the hotel became defunct and the petitioner also became mentally ill because of stress and tension. The land measuring 08 Kanals and 2 Marlas falling under Khasra No.1077/19, Khewat No.39 Min and Khata No.81 Min, situated at Village Sakhat, Tehsil Billawar, Kathua was mortgaged and taken by respondent No.3 as additional security towards the loan. The petitioner could not repay the loan amount due to the failure in setting up the hotel because of non release of approved amount by respondent No.3 and he has deposited a sum of Rs.50,000/- with respondent No.3. After deposit of said amount, on 01.06.2009, the petitioner requested the respondent No.3 for waiving off the interest accrued on the loan amount, with a further request that he will deposit the balance principal amount in six equal installments for settling the account once for all. The petitioner has submitted his applications earlier for one time settlement of loan amount. The Corporation had not considered the applications of the petitioner and instead issued fresh notice bearing No.DOPK/13/87 dated 10.06.2013 calling upon the petitioner to deposit an amount of Rs.1,14,22,328/- within a period of 15 days and in default it was provided that the Corporation shall proceed against the petitioner under the provisions of Section 29 of the State Financial Corporation Act, 1951 by putting the hotel as well as additional security given by the petitioner to auction for recovery of outstanding dues.

3. Mr. R.P Sangra, learned counsel appearing for the petitioner submits at the Bar that the part payment of the liabilities/balance amount is being paid by the petitioner regularly. He further submits that the petitioner is ready and willing to deposit the outstanding in the near future. In support of his

submission, learned counsel has produced a statement dated 10.02.2023 issued by the J&K State Financial Corporation, Jammu, the same is taken on record.

4. At this stage, Mr. R.P Sangra, learned counsel appearing for the petitioner submits that this petition can be disposed of by providing liberty to the petitioner to approach the respondents-Corporation by filing a detailed representation for settlement of loan account and the Corporation may be directed to consider the same within certain time frame. His statement is taken on record.

5. In view of the statement made by learned counsel for the petitioner, this petition is, disposed of, with a direction to the petitioner to file a detailed representation within a period of three weeks from today. Upon receipt of such a representation, the respondent Nos. 2 and 3, shall consider the same for re-settlement of the loan account, under the permissible rules.

6. It is made clear that this Court has not expressed any opinion on the merits of the case.

7. The petition stands disposed of along with connected application.

Jammu:
24.02.2023
Surinder

(Tashi Rabstan)
Judge

Whether the order is speaking?
Whether the order is reportable?

Yes/No
Yes/No