IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.1348 of 2015 (O&M)
DATE OF DECISION: 28.01.2015

M/s Cheema Education and Charitable Trust

…..Petitioner

versus

The Debts Recovery Appellate Tribunal, Delhi and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rahul Sharma-I, Advocate for the petitioner

Mr. C.S. Pasricha, Advocate for respondent No.2/ Central Bank of India

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S.J.VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

Caveat application:

Mr. C.S. Pasricha, Advocate has put in appearance on behalf of respondent No.2-Central Bank of India.

Caveat stands discharged.

CWP-1348-2015:

The petitioner has challenged the order of the Debts Recovery Appellate Tribunal (DRAT) staying order passed by the Debts Recovery Tribunal (DRT).

2. One of the disputes between the parties pertains to the exact amount due and payable by the petitioner to respondent No.2-Central Bank of India. The dispute pertains to the rate of interest that the respondent No.2 is entitled to charge.

According to petitioner, the agreement under which the facilities were advanced does not stipulate the rate of interest and that the rate of interest was added by hand at 4% per annum above the PLR subsequently. Further, the notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Act, 2002 (SARFAESI Act) demanded interest at 2.5% per annum above the BPLR. In the proceedings under the SARFAESI Act, respondent No.2 claimed 4% above the BPLR.

3. Even assuming in favour of the petitioner that the rate of interest is only 2.5% per annum above the PLR or that the agreement does not stipulate the rate of interest, it is clear that a substantial amount is due and payable by the petitioner to respondent No.2. According to respondent No.2, the amount due and payable as on date is about Rs.42 lacs.

4. The petitioner is an educational institution. The ends of justice would be served by granting the petitioner interim relief against sale of the mortgaged property, but subject to the petitioner's depositing a substantial amount.

In these circumstances, the writ petition is disposed of by the following order:

(i) The order of the DRAT is quashed and set aside and the interim order granted by the DRT shall stand revived subject to the petitioner's depositing with respondent No.2 a sum of Rs.35 lacs on or before 30th March, 2015;

(ii) Respondent No.2 shall be entitled to adjust the amount on account towards the dues of the petitioner. Respondent No.2 shall, however, be entitled to do so on the condition that it will bring back any amount that it may be directed to in the proceedings pending between the parties before the DRT under the DRT Act or in the proceedings under the SARFAESI Act with such interest as may be specified. All the contentions between the parties including regarding the rate of interest are kept open.

(iii) In the event of the amount not being paid, as aforesaid, the order of the DRAT shall revive.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

28.01.2015
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(AUGUSTINE GEORGE MASIH)
JUDGE