

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.367 of 2015(O&M)

Date of decision:21.7.2015

Kuldeep Singh and another

....Petitioners

VERSUS

State Bank of Patiala and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Gurbhajneek Singh Samra, Advocate for the
petitioners.

Mr. H.N. Mehtani, Advocate for respondents.

HEMANT GUPTA, J.(Oral)

The petitioners have challenged the auction of land measuring 25 kanals and 8 marlas proposed for 15.01.2015 for the reason that they are the auction purchasers of the said land in an earlier auction held on 27.02.2013.

M/s Amarpreet Rice Mills availed financial assistance from the respondent-Bank and mortgaged the aforesaid land. Since there was default in payment of the loan amount, the Bank put the property on auction on 27.02.2013. The petitioners gave highest bid of Rs.92,08,000/- and deposited 25% of the bid amount on the said date. Thereafter, the petitioners deposited another sum of Rs.22,30,000/- making the total amount to Rs.45,32,000/-.

The grievance of the petitioners is that thereafter the petitioner came to know that there is an Arbitration Award against borrower- M/s Amarpreet Rice Mills awarding a sum of Rs.7,51,43,523/- and that said amount is an encumbrance against the property put to auction. Therefore, petitioners did not make the payment.

On the other hand, the Bank forfeited the amount deposited by the petitioner on account of non-payment of remaining sale consideration and put the property to re-auction. It is at that stage, the petitioners invoked the writ jurisdiction of this Court.

A perusal of Annexure P-7, demand raised by District Collector, Food Civil Supplies & Consumer Affairs, Bathinda shows that for the Kharif season 2009-10, FIR No.51 dated 06.06.2012 stands registered against M/s Amarpreet Rice Mills for misappropriating the paddy of Government allotted by PUNGRAIN Agency. The dispute was referred to Arbitrator and Arbitrator has announced the award in the sum of Rs.7,51,43,523 payable by M/s Amarpreet Rice Mills.

Mr. Mehtani, learned counsel for the respondent-Bank, states that the said award is in the nature of money decree and does not affect the rights of the Bank over the mortgaged property which was sold to the petitioners. Therefore, the failure of the petitioners to deposit the balance sale consideration is to their own peril.

We have heard learned counsel for the parties and find that in the interest of justice it will be fair and reasonable if the petitioners are given time to deposit the balance sale consideration but

along with interest on the current Bank rate for deposit for the default in making payment of the purchase price as there was reasonable basis for the petitioner to doubt the title of the Financial Corporation for sale of the property. The appreciation of the petitioners cannot be said to be wholly unfounded when they did not make the payment as there is an award of over Rs.7 crores against M/s Amarpreet Rice Mills.

Therefore, we direct the Bank to accept the balance sale consideration along with rate of interest as is paid by the Bank on deposits. The Bank shall calculate the balance amount along with interest thereon and communicate the amount to be deposited to the petitioners within two weeks from today. The petitioners shall deposit the said amount within a period of three weeks thereafter.

The writ petition stands disposed of accordingly.

(HEMANT GUPTA)
JUDGE

JULY 21, 2015
‘D. Gulati’

(LISA GILL)
JUDGE