

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 3846 of 2015

Date of Decision: May 27 , 2015.

M/s Falcon Impex and others

..... PETITIONER (s)

Versus

Authorized Officer, Punjab and Sind Bank and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE HEMANT GUPTA
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Sandeep Moudgil, Advocate
for the petitioners.

Mr. BPS Dhaliwal, Advocate
for respondents No.1 and 2.

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

HEMANT GUPTA, J.

Challenge in the present writ petition is to order dated 26.02.2015 passed the Debt Recovery Tribunal (for short, the 'Tribunal') reserving proceedings carried out by the respondent Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the 'Act').

Learned counsel for the petitioners, *inter alia*, argued that in an application filed under Section 17 of the Act, the learned Presiding Officer of

the Tribunal heard the arguments and reserved the orders on 09.06.2014. But without waiting for the decision of the Tribunal, the respondent Bank proceeded for the sale of property on 04.03.2015. The petitioners filed an application for stay of the auction, which was granted on 18.02.2015 by the Tribunal. But on 26.02.2015 without giving any reason, the interim protection granted to the petitioner has been vacated by the Tribunal by a cryptic and non-speaking order.

Mr. Dhaliwal, learned counsel for the respondent – Bank submits that that petitioner has misled the Tribunal while obtaining interim order dated 18.02.2015 therefore, the said order was vacated on 26.02.2015.

But we find such an argument of Mr. Dhaliwal untenable. If there was misleading of any fact, the Presiding Officer was bound to record the finding in the impugned order. In the absence of such finding, it is not permissible for Mr. Dhaliwal to contend that there was any misleading of fact.

Conduct of the proceedings of the Tribunal reflects sorry state of affairs. The arguments on the application of petitioners were heard on 09.06.2014. However, the order has not been pronounced by the Tribunal for more than eight months. The petitioner filed an application for interim protection. Delay on the part of the Tribunal in not pronouncing the order cannot fall upon the borrower who has approached the statutory authority for redressal of the grievances.

Consequently, we find order dated 26.02.2015 passed by the Tribunal vacating the stay is liable to be set aside and is, thus, set aside.

It is pointed out that the arguments were heard by another Bench on 09.06.2014 whereby the interim protection was granted and the said interim

order has been vacated by another Bench. We find that it will be in the fitness of things that the matter is posted before the Bench who had heard the matter on 09.06.2014. The Bench is expected to decide the same expeditiously in accordance with law.

The property of the petitioners shall not be put to sale till the matter is finally decided by the Debt Recovery Tribunal.

Writ petition stands disposed of.

**(HEMANT GUPTA)
JUDGE**

**(LISA GILL)
JUDGE**

May 27 , 2015.
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