

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.421 of 2015 (O&M)
DATE OF DECISION: 20.02.2015

M/s Estex Woollen Mills Pvt. Ltd.Petitioner
versus

Punjab State Industrial Development Corporation and another
.....Respondents

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

Present: Mr. Anand Chhibbar, Sr. Advocate with
Mr. Vaibhav Sahni, Advocate for the petitioner

Mr. V.M. Gupta and Ms. Sonal Datta, Advocates
for respondent No.1

Mr. Munish Jain, Advocate for Asset Care
Enterprise Ltd.

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

The petitioner has challenged the proceedings adopted by the respondents under the SARFAESI Act. We had, by an order dated 12.01.2015, directed the parties to maintain status-quo in respect of mortgaged assets in view of an unconditional undertaking on behalf of the petitioner to pay respondent No.1 a sum of Rs.1 crore on or before 12.02.2015 and a further sum of Rs.1 crore on or before 12.03.2015 on account. The respondent No.1 was at liberty to accept and appropriate the amount without prejudice to its rights and contentions and without the petitioner's claiming any right whatsoever by reason of the said payment.

2. The amounts have not been paid despite the undertaking. Offers have been made by the petitioner to try and sort out the matter. Contentions have been raised regarding the validity of the respondent's claim. For instance, the petitioner contends that they were entitled to the benefit of an OTS policy which, if accepted, would entail liability of only about Rs.1.26 crores.

3. We see no reason to entertain this petition under Article 226 of the Constitution of India. There are, to say the least, disputed questions of fact even as regards the petitioner's entitlement to the OTS policy. Further, as we have mentioned earlier, we issued notice of motion only in view of the undertaking to pay the said amount of Rs.2 crores. The same has not been paid.

4. In the circumstances, the writ petition is dismissed with liberty to the petitioner to avail of alternate remedy. All the contentions between the parties including regarding OTS are kept open.

**(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE**

20.02.2015
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**(AUGUSTINE GEORGE MASIH)
JUDGE**