IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7238 of 2015

Date of decision:21.4.2015

M/s Macro Diary Ventures Pvt. Ltd. ....Petitioner

VERSUS

State of Punjab and others .....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. V.K. Sachdeva, Advocate for the petitioner.

Mr. N.C. Sahni, Advocate for the caveator-respondents.

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HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to an order passed by learned District Magistrate, Ludhiana, on 22.08.2013 under Section 14 of the Securitization and Reconstruction of Financial Asset and Enforcement of Security Interest Act, 2002 (for short 'the Act'). The challenge is to the said communication, inter alia, on the ground that no opportunity of hearing was granted to the petitioner and that the petitioner is ready and willing to settle the loan account in terms of the offer of the Bank dated 16.12.2014 as the petitioner intends to pay a sum of Rs.1 crore in terms of the said letter for considering the one time settlement proposal of the petitioner.

A Division Bench of this Court in CWP No.15921 of 2014 titled M/s Punjab Chemical Industries v. District Magistrate-cum-Deputy Commissioner, Ludhiana and others, decided on 12.08.2014 has considered the judgment of Hon'ble Supreme Court in

Harshad Govardhan Sondagar v. International Assets Reconstruction, 2014(6) SCC Page 1, and held that even against an order passed by the District Magistrate the remedy of an aggrieved person is under Section 17 of the Act to file an application before the Debts Recovery Tribunal. Therefore, we do not find that the petitioner can be permitted to dispute the order passed by the District Magistrate at this stage after more than 20 months.

But at the insistence of the learned counsel for the petitioner, we have heard learned counsel for the petitioner on merits as well. Learned counsel vehemently argued that the order passed was ex-parte and the petitioner came to know about the said order only when the Bank filed a writ petition seeking direction to the District Magistrate to enforce its earlier communication dated 22.08.2013, therefore, this Court should intervene in the matter.

This Division Bench in CWP No.1210 of 2015 titled Raman Khangura v. Board of Directors of Punjab & Sind Bank and others, decided on 20.04.2015 has considered a similar argument in a writ petition filed by wife of the Managing Director of the petitioner-borrower company in respect of another loan account. It has been held that when a District Magistrate passes an order under Section 14 of the Act, he exercises administrative jurisdiction and such an order is not by way of adjudicatory process and therefore, no opportunity of hearing can be claimed as a matter of right.

In view of the aforesaid judgment in Raman Khangura's case (supra), we find that the argument raised by the petitioner that the order passed by the District Magistrate is an ex-parte order is not tenable.

A perusal of the communication dated 16.12.2014 shows that the petitioner has promised to deposit a sum of Rs.100 lac as token money before 31.12.2014 before the one time settlement is to be considered and the balance amount will be deposited as per terms of sanction. Even though the petitioner has offered to pay a sum of Rs.1 crore before 31.12.2014 but the said amount has not been paid to enable the Bank to consider the one time settlement proposal. In fact, the said amount is being offered by the petitioner today in Court i.e. after more than four months of the communication dated 16.12.2014.

We find that the petitioner does not intend to make the payment of the huge public dues of Rs.126 crores due and payable by the petitioner as it has failed even to deposit the token amount for consideration of its one time settlement proposal.

In view thereof, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

APRIL 21, 2015 **(LISA GILL)**
'D. Gulati' **JUDGE**