Ramesh Kumar
2016.12.22 10:39

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.8429 of 2016
Date of Decision: December 14, 2016

M/s Gaurav Trading Company, Commission Agent, Anaj Mandi, Narwana & another

...Petitioners

Versus

M/s Hanuman Rice Mill Tarawari, Tehsil and District Karnal & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Arun Bansal, Advocate,
for the petitioners.

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AMIT RAWAL, J. (Oral)

Petitioner-plaintiffs are aggrieved of the impugned order dated 29.11.2016 (Annexure P-10), whereby the trial Court, after noticing the factum of mortgage of Rice Mill on 17.4.2010, whereby loan of ₹7,07,80,000/- had been obtained and increased limit to ₹30.85 crores, has been disposed of by directing the respondent-defendants to maintain status-quo except to discharge the liability of the Bank.

Mr.Arun Bansal, learned counsel for the petitioner-plaintiffs submits that in case the respondent-defendants close down the Mill, their interest would not be protected and an appropriate direction be issued to the respondent-defendants to furnish the security as the outstanding amount has not been denied in the written statement. The suit is slated for plaintiffs' evidence.

I have heard the learned counsel for the petitioner-plaintiffs and appraised the paper book.

Petitioner-plaintiffs are unnecessarily wasting the time of the Court for adjudication of the application as on an earlier occasion also, they approached this Court vide Civil Revision No.7380 of 2016, which was disposed of vide order dated 7.11.2016. The trial Court dismissed the application. The relevant portion of the order reads thus:-

> "*13. Taking into account the totality of facts and circumstances of the present case, this Court is of the considered view that the plaintiff/applicant has failed to prove such facts which could satisfy the ingredients of Order 38 Rule 5 CPC and in such circumstances, a mechanical order of directing the defendants to furnish security cannot be passed. At the same time, this Court is also of the considered view that it would best serve interest of justice if the respondents/ defendants are directed to not create any further mortgage on their Rice Mill and ensure that status quo is maintained with regard to their Rice Mill till final decision of the present suit. The order of status quo will not prevent the respondents/ defendants from discharging the loan with the Bank. The application in hand stands disposed of in the aforesaid terms.*"

In my view, the order passed is most appropriate and innocuous. No steps have been taken so far in alienating mortgaged property. Instead of hovering upon such aspect, the petitioners should also focus on the adjudication of the pending suit in the most expeditious manner.

For the foregoing reasons, I do not intend to differ with the findings rendered by the trial Court. The petitioner-plaintiffs shall be at liberty to lead the evidenced as expeditiously as possible and the trial Court shall decide the suit as and when the evidence is complete. The trial Court will ensure that the respondent-defendants do not take unnecessarily adjournments.

Accordingly, the impugned order is upheld.

With the aforementioned observations, the revision petition is disposed of.

December 14, 2016 **(AMIT RAWAL)**
ramesh **JUDGE**

Whether speaking/reasoned **Yes/No**

Whether Reportable: **Yes/No**