IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.18511 of 2016
Date of decision: 11th August, 2016

Central Bank of India

… Petitioner

Versus

State of Haryana and others

… Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. C.S. Pasricha, Advocate for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana for respondents No.1 and 2.

Mr. Vivek Goyal, Advocate for respondent No.3.

Mr. B.S. Saini, Advocate and
Mr. Sham Lal Bhalla, Advocate for respondent No.4.

FATEH DEEP SINGH, J.

In this petition preferred under Section 482 Cr.P.C. petitioner Central Bank of India (in short, 'the Bank') has sought to assail an order dated 07.04.2016 passed by the Court of learned Judicial Magistrate 1st Class, Karnal as well as an order dated 25.04.2016 passed by the revisional Court of learned Additional Sessions Judge, Karnal.

Precise dispute inter-se amongst the parties is that respondent No.3 M/s Bhagwati Rice Mills are carrying on the business of milling and which had approached the petitioner Bank for sanction of credit facilities under the scheme of the Government popularly known as **Central Warehouse Receipts Scheme** and as a consequence of which

₹15.00 crores were sanctioned under collateral management services whereby the stock of paddy and rice with the loanee was the primary pledge and which at that time were assessed to the tune of ₹24.00 crores. Pledge of warehouse receipts of National Bulk Handling Corporation (NBHC) respondent No.4 was undertaken and which goods were also put under insurance cover. It is during the course of events a criminal case by way of FIR No.72 dated 05.03.2016 under Sections 406/420 etc. IPC was registered against the miller at the behest of respondents No.1 and 2 and as a consequence of which the police had taken into possession stock of the miller lying under their custody.

Before the Court of learned Judicial Magistrate 1st Class, Karnal an application was moved for sapurdari of 43757 bags of paddy quality 1121 by the petitioner Bank claiming that the same being by way of security pledged with them they were entitled to its custody and it is as a consequence of this the District Food and Supply Department respondent No.2 claimed that in fact they were entitled to sapurdari as the paddy in question was given to the miller for custom milling. The Court below disposed off this application ordering release of the paddy in favour of DFSC, Karnal directing them to further sell the same by auction being perishable goods and to deposit the sale proceeds in the Court. The same was subject matter of challenge in revision and the Court of learned Additional Sessions Judge, Karnal through impugned orders/judgment dated 19.04.2016 disposed off the revision petition observing that the Central Bank of India present petitioner and the miller M/s Bhagwati Rice Mill would participate in the auction to be conducted by DFSC, Karnal and upheld the findings given by the Court below otherwise. The same is challenged before this Court.

Heard Mr. C.S. Pasricha, Advocate for the petitioner; Mr.Munish Sharma, Asstt. Advocate General, Haryana on behalf of respondents No.1 and 2; Mr. Vivek Goyal, Advocate for respondent No.3; Mr. B.S. Saini and Mr. Sham Lal Bhalla, Advocates representing respondent No.4.

During the course of arguments before this Court, learned counsel for the parties have conceded the fact that the paddy is a perishable item and without comprehensive adjudication of the rights and interests of each of the claimants which can only be done by adducing evidence, there is every likelihood that the goods might perish thus causing not only personal loss but as well as the national loss.

Mr. Pasricha on instructions from the petitioner side has made a statement that the orders passed by the Court below putting the paddy in question to auction wherein all the claimants, the petitioner Bank, DFSC, the miller M/s Bhagwati Rice Mill as well as NBHC respondent No.4 shall participate in the open auction to ensure that the same is conducted strictly in compliance of the provisions of law and that the money so earned in this auction shall be retained by the petitioner Bank by way of FDR in its name till the final adjudication by a competent Court and upon such adjudication if it is so necessitated, the petitioner Bank shall return to the legitimate claimant so held by the Court the entire amount along with interest which would accrue thereon as per the prevalent Banking rates from the date of deposit of the sale proceeds which money will be kept by way of FDR where maximum interest shall accrue and original FDR will be kept in Court below, which Mr.Munish Sharma, Asstt. Advocate General, Haryana on behalf of respondents No.1 and 2; Mr. Vivek Goyal, Advocate for respondent No.3; Mr. B.S. Saini and Mr. Sham Lal Bhalla, Advocates representing respondent No.4 have accepted. Thus, in the light of the same, it is ordered so and that respondent No.2 shall supervise this auction and undertake necessary formalities and costs incurred thereon if any, shall be equally born by all the parties to this petition in the light of orders of learned Additional Sessions Judge. Before holding such an auction the petitioner Bank shall submit an undertaking before the Court below undertaking to abide by these terms and conditions. The petition is thus disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

August 11, 2016
rps

Whether speaking/reasoned Yes/No
Whether reportable Yes/No