

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.10277 of 2016
Date of Decision : 02.06.2016.**

M/s Aurora Electronic, Dharampura Bazaar, Patiala and others

.....Petitioners

Versus

Bank of India and another

..... Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. Animesh Sharma, Advocate for the petitioners.

Mr. R.S.Khural, Advocate for the respondents.

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

The petitioners have challenged an order passed by the DRT refusing to hand back possession of three shops. The respondents contend that there are only two shops. Be that as it may, the application is for return of the shops.

2. The notice under Section 13(2) issued in December 2014, demanded a sum of Rs.28.96 lacs. The respondents' case is that till today with interest a sum of Rs.36 lacs is pending. The petitioners have challenged the computation and raised certain issues in an S.A. filed by the petitioners. However, as on account of being dispossessed, the petitioners business is suffering on a daily basis, they are willing to deposit an amount of Rs.36 lacs in installments we will refer to, without prejudice to their rights and contentions in the S.A and subject to final taking of amounts.

3. The petitioners have today tendered two demand drafts aggregating to ₹9 lacs which the respondents are at liberty to encash on account and without prejudice to their rights and contentions. The petitioners further agree and undertake to pay a sum of ₹9 lacs on or before 01.08.2016. The petitioners are also agree and undertake to pay the balance ₹18 lacs in 10 equal monthly installments of ₹1,80,000/- each on or before the first day of each month commencing 1.9.2016. The respondents shall be entitled to receive the said amount on account and without prejudice to their rights and contentions. Post dated cheques for the aforesaid amount were offered and handed over in Court. However, the petitioners shall deposit the same with the respondent-bank on or before 6.6.2016. The undertaking that the cheques will be honoured on presentation is accepted.

4. The bank claims a larger amount on account of interest on the sum of ₹36 lacs till payment on the reducing balance. The petitioners, on the other hand, dispute the amount of ₹36 lacs itself. In the facts and circumstances of this case and considering that the matter is at the *interlocutory* stage, we are satisfied with the *bona fides* of the petitioners and are of the opinion that it is sufficient to put the petitioners back in possession of the shops subject to the conditions stipulated in this order.

5. The petition is, therefore, disposed of by setting aside the impugned order and directing the petitioners to be put in possession of the said shops forthwith upon the deposit of the post dated cheques referred to above. The order is passed in view of the undertaking that the cheques will be deposited by the petitioners with the bank by 6.6.2016 and will be

honoured. In the event of any two defaults the petitioners undertake to forthwith hand-over quite vacant and peaceful possession of the shops to the respondents. The undertaking is accepted. In that event the petitioners agree that the bank shall be at liberty to sell the property in accordance with law. The petitioners' possession shall be as agents of the respondents who shall be deemed to have been appointed receiver of the premises but without any cost, charges or expenses. In view of this order the present auction process shall stand cancelled. This order is also passed in view of the undertaking by the petitioner to sign the renewal documents. The same however, shall be subject to and without prejudice to the rights and contentions of the petitioners. It is agreed that even if for some reasons the documents are not signed this order shall constitute an expression written agreement of the acknowledgment of debt if any.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

02.06.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE