

CWP No.20661 of 2012

[1]

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

**CWP No.20661 of 2012
Date of decision:22.04.2016**

Baba Bidi Chand Bricks Udyog Samiti ...Petitioner

Versus

Punjab Khadi and Village Industries Board and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. R.K.Sharma, Advocate,
for the petitioner.

Mr. N.S.Jagdeva, Advocate,
for respondent No.1.

Mr. Daman Dhir, Advocate,
for respondent No.2.

Rakesh Kumar Jain, J. (Oral)

This petition is filed in order to challenge the letter dated 20.10.2011 written by respondent No.1 to the Collector, U.T., Chandigarh for effecting recovery of its amount due towards the petitioner under Section 32-A of the Punjab Khadi and Village Industries Board Amendment Act, 1961.

At the time of notice of motion on 15.10.2012, the following order was passed by this Court:-

“Learned counsel for the petitioner contends that he is willing to settle the matter with the respondents and make the requisite payment subject to adjustment in the interest component which is the only subsisting liability as against the petitioner. He

further states that loan which he has availed of was about ₹14 lakhs and he was willing to pay an equal amount i.e. ₹14 lakhs and ₹50,000/- as against interest component. He further states that this amount of ₹14.50 lakhs shall be paid within a period of six months in two equal instalments.

Notice of motion for 31.1.2013.

If that be so and if the petitioner deposits a sum of ₹7 lakhs within a period of two months from today as the first instalment towards his liability, the operation of the impugned order effecting recovery shall remain stayed till the next date of hearing. In case he does not deposit the first instalment within the stipulated period, the benefit of this interim order shall not enure to him and the respondents shall be at liberty to proceed against him.”

Counsel for the petitioner has submitted that not only ₹7 lacs, which were to be deposited by him within two months for the purpose of stay, but the remaining amount of ₹7.5 lacs has also been paid by it to respondent No.1.

Counsel for respondent No.1 has submitted that the matter cannot be settled at ₹14.50 lacs, as the total recovery is of ₹44 lacs, besides the principal amount, as per recovery certificate. It is also submitted that the petitioner has concealed the material facts from this Court as it had not disclosed of having filed a Civil Suit in the past for rendition/settlement of accounts from the year 1999 up to date and also for relief of permanent injunction, which was declined by the Addl. Civil Judge (Sr. Divn.), Patti on 10.05.2007 and, thereafter, the petitioner withdrew the suit on 26.08.2009. It is submitted that with the withdrawal of the suit without seeking permission to file it afresh, the petitioner cannot approach this Court invoking extraordinary writ jurisdiction under Article 226 of the Constitution of India. In this regard, counsel for the petitioner has

CWP No.20661 of 2012

[3]

submitted that the suit was withdrawn because the threat of arrest of the office bearers of the petitioner-Samiti was not there, otherwise the petitioner would have continued with the suit.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the present petition is not maintainable because the cause shown by the petitioner before this Court at the time of notice of motion was that the petitioner was ready and willing to pay the amount of interest i.e. equal to the principal amount and on that premise, this Court had ordered that in case the petitioner deposits half of the amount, as offered by him, the operation of the impugned order effecting recovery, shall remain stayed. It was not brought to the notice of this Court that the petitioner had earlier filed a civil suit which was withdrawn by it without seeking permission either to file it afresh or to approach this Court by way of writ petition.

The petitioner is, thus, guilty of concealment of facts and cannot be allowed to continue with the present writ petition. Even otherwise, respondent No.1 has categorically stated that the amount of interest being public money cannot be reduced by them.

In view of the aforesaid discussion, I do not find any merit in the present petition and hence, the same is hereby dismissed.

April 22, 2016
vinod*

(Rakesh Kumar Jain)
Judge