

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

**CWP No.22341 of 2016
Date of decision: 26.10.2016**

Sanjeev Kumar

... Petitioner

Vs.

Registrar, Cooperative Societies, Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.S. Gagrha, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Instant writ petition is directed against the sale/auction notice dated 22.09.2016 (Annexure P-5).

Heard learned counsel for the petitioner.

It is a matter of record that petitioner took loan from Amritsar Central Cooperative Bank Limited, Amritsar to the tune of Rs.7.50 lacs. Petitioner, being the President of the Society known as Well Man Handloom-cum-Powerloom Production Cooperative Industrial Society Limited, Amritsar, mortgaged his property with the respondent-Bank. The loanee failed to repay the loan. Arbitration proceedings were initiated against the petitioner, which came to be concluded against the petitioner vide award dated 06.09.2005 (Annexure P-1). Total liability against the petitioner on 30.11.2005 was of Rs.9,93,719/-.

Petitioner was disputing the rate of interest, but he did not try to discharge his financial liability even to the extent of undisputed amount. He approached this Court by way of CWP No.5771 of 2010, which came to be disposed of, vide order dated 15.09.2010 and the operative part thereof, reads as

under: -

“The Bank shall, after following the mode and method prescribed, serve statement of accounts upon the petitioner within 15 days, depicting the outstanding amount and the same shall be paid by the petitioner within three months thereafter. On failure of the petitioner to pay the amount, the Bank shall proceed against the petitioner in accordance with the provisions of law.”

Even the abovesaid indulgence and sympathy shown by this Court in favour of the petitioner was not availed by the petitioner. He did nothing. Thereafter, he approached this Court again by filing COCP No.1401 of 2011. However, once this Court found that petitioner failed to show his bonafide, the said contempt petition was dismissed by passing the order dated 21.12.2011 (Annexure P-4) and the relevant part thereof, available at page 22 of the paper book, reads as under: -

“Learned counsel for the petitioner has sought to raise some frivolous pleas now stating that nothing is due without justifying with reference to any material, whereas on December 14, 2011, a statement had been made that about Rs.3 lacs were outstanding. The petitioner was directed to bring a demand draft in favour of the respondents for a sum of Rs.3 lacs which was without prejudice to the rights of the respondents in the pending petition, but, he has not complied with the aforesaid directions of this Court, which disentitles the petitioner to any further consideration. Accordingly, the present petition is dismissed.”

It is also pertinent to note here that once the petitioner failed to show any inclination to discharge his financial liability, which is amounting to

Rs.10.00 lacs, as pointed out in the impugned auction notice (Annexure P-5), at page 23 of the paper book, the respondent-Bank was forced to take coercive steps against the petitioner. Even today, petitioner is not ready to deposit the entire outstanding amount. It shows that petitioner was not interested to repay the loan amount at any point of time, as if it was not his obligation. Thus, petitioner has not been found to be a bonafide litigant, because of which he does not deserve any kind of sympathy from this Court as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail and the same is hereby dismissed. No case for interference has been made out.

However, petitioner is still granted liberty to approach the respondent authorities to offer to discharge his financial liability. In case, offer is found genuine and bonafide, the respondent authorities would do well to accept the same, by postponing the auction proceedings but it will be the discretion of the respondent authorities to take an appropriate decision in this regard, as per the peculiar facts and situation of the case.

Resultantly, with the abovesaid observations made, instant writ petition stands disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

26.10.2016
vishnu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No