

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.6398 of 2016 (O&M)
DATE OF DECISION: 05.04.2016

M/s Faridabad Forging Pvt. Ltd. and others

....Petitioners

versus

Punjab National Bank and another

.....Respondents

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

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate for the
petitioners

Mr. Arvind Rajotia, Advocate for the respondents

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

The petitioners have challenged a proposed auction of their properties by the respondents in exercise of the powers under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

2. The petitioners had earlier challenged the notices issued under Sections 13(2) and 13(4) of the SARFAESI Act by filing CWP No.3168 of 2012, which we disposed of by our order and judgment dated 11.03.2016. The petitioners were relegated to the remedy of making the necessary application before the DRT. The petitioners accordingly filed an appeal under Section 17 of the SARFAESI Act which is still pending. In the meantime, the petitioners filed an application for interim relief to stay the auction. The matter was to be heard on 04.04.2016. Prior thereto, the petitioners filed an application to restrain the parties from inspecting the premises contending that some of the parties were creating nuisance. This application was rightly rejected by the DRT by its order dated 31.03.2016.

3. We do not intend furnishing reasons for the same in view of the order that we propose passing. The DRT, however, unfortunately, probably through inadvertence, adjourned the application for interim reliefs to 12.07.2016, though it was earlier listed for 04.04.2016. The auction is proposed to be held tomorrow, *i.e.*, 06.04.2016. The matter, therefore, ought to have been adjourned to 04.04.2016. We would, therefore, normally have permitted the DRT to consider the application for interim reliefs today itself, but the learned member of the DRT is on leave today. We would, in that event, have directed him to hear the matter tomorrow morning as the auction is proposed to be held only at 1.00 P.M. tomorrow. However, in view of the offer made by the petitioners, the interests of all the parties would be safeguarded. It would obviate any necessity of the respondents' prosecuting any litigation. The petitioners have agreed to pay the entire amounts along with interest. We only intend granting the petitioners indulgence to the extent of permitting them to repay the amount in instalments.

4. The petition is, therefore, disposed of by the following order:-

- (i) The petitioners agree and undertake to pay an amount of Rs.50 lacs by 12 noon tomorrow, a further amount of Rs.50 lacs on or before 05.05.2016 and the balance amount, as claimed by the notice dated 07.12.2015 under Section 13(2) of the SARFAESI Act, in six equal monthly instalments with interest on the reducing balance as claimed in the Section 13(2) notice.

The undertaking is accepted and it is so ordered.

- (ii) The payment of Rs.50 lacs to be made tomorrow shall be by a demand draft. The petitioners agree and undertake

to furnish a post-dated cheque of an amount of Rs.50 lacs dated 05.05.2016.

- (iii) In the event of there being any two defaults, the petitioners agree and undertake without further orders of the Court to hand over quiet, vacant and peaceful possession of the secured assets to the respondents. In that event, the respondents shall be entitled to enforce their rights including by bringing the properties to sale for the balance amount due and payable.

The petitioners also agree and undertake to furnish post-dated cheques dated 05.06.2016, 05.07.2016, 05.08.2016, 05.09.2016, 05.10.2016 and 05.11.2016 in the sum of Rs.43,50,000/- each. The petitioners agree and undertake that the cheques would be honoured upon presentation. The petitioners undertake to pay the interest on the reducing balance by separate cheques along with each instalment as notified by the bank. The undertakings are accepted.

5. In view of the above undertakings and subject to the demand draft in the sum of Rs.50 lacs being handed over by the petitioners to the respondents by 12.00 noon tomorrow, the auction shall stand postponed.

6. The writ petition is accordingly disposed of.
Copy dasti under the signatures of the Bench Secretary.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

05.04.2016
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(ARUN PALLI)
JUDGE

