

In the High Court of Punjab and Haryana at Chandigarh.

**CM-7 of 2016 in/and
CWP-COM--33 of 2016
Decided on 13.12.2016**

M/s. Jay Suitings and Sarees Mills

--Applicant/Petitioner

Vs.

State of Haryana and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Jitender Dhanda, Advocate, for the applicant/petitioner

Rakesh Kumar Jain,J: (Oral)

CM-7 of 2016

Application is allowed. Reply Annexure P-7, is taken on record.

CWP-COM-33 of 2016

Learned counsel for the petitioner has submitted that the petitioner had obtained loan from Haryana Financial Corporation-respondent No.2 in the year 1992. Since the petitioner was a defaulter, therefore, HFC took over the physical possession of plants and machinery on 17.06.1998.

The petitioner challenged that action of the Corporation by way of a Civil Suit along-with an application for interim injunction. Injunction was refused but in appeal injunction was granted on 16.10.1999 directing the HFC not to sell the secured assets. However, on 30.12.1999, the HFC

sold the unit. The suit was ultimately dismissed on 30.08.2007 but appeal was allowed on 28.10.2009 with a direction to the HFC to return the physical possession taken on 17.6.1998. The Second Appeal filed by the HFC against the judgment and decree dated 28.10.2009 was dismissed on 25.02.2010.

Thereafter, the petitioner filed the execution petition before the Civil Judge on 27.10.2010 for taking the physical possession on which the Civil Judge issued warrant of possession and appointed Bailiff, who took over the physical possession of plants but without machinery and goods. The petitioner in the meantime, arranged a buyer and submitted a cheque of ₹20.00 lacs to the HFC on 27.04.2015 and requested for NOC on 14.06.2016.

The HFC inspite of issuing NOC to the petitioner, raised illegal demand of ₹17 crores including the interest/penal interest from the year 1998 till date to which the petitioner replied to the Demand Notice on 11.6.2016. Since the HFC was not taking a decision after considering the reply of the petitioner, the present petition has been filed.

Notice of motion.

At this stage, Mr. Pritam Saini, Advocate, has put in appearance on behalf of respondent Nos. 2 and 3 (contesting respondents) and has submitted that the said respondents may be given some time to take a decision on the reply filed by the petitioner and assured the Court that till then, no coercive steps shall be taken.

In view thereof, this petition is disposed of with a direction to respondentNos.2 and 3 to take into consideration the reply dated 11.6.2016 filed by the petitioner and Demand Notice dated 14.6.2016 in accordance

with law and by passing a speaking order after associating the petitioner in the proceedings.

Needful shall be done within two months and till then, the respondent No.2 and 3 shall not take any coercive steps.

13.12.2016
rr

(Rakesh Kumar Jain)
Judge

Whether Speaking/Reasoned: **Yes/No.**

Whether Reportable: **Yes/No**