THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
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CWP No.11878 of 2016 (O&M)
Date of Decision:17.01.2017

Asa Ram Aggarwal Education and Research Society .....Petitioner

Vs.

Punjab and Sind Bank and others .....Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Vikas Mohan Gupta, Advocate with
Mr. Vaibhav Sahni, Advocate for the petitioner.

Mr. I.P. Singh, Advocate for the respondents.

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<u>RAKESH KUMAR JAIN, J.(Oral)</u>

The petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents not to declare the loan accounts of the petitioner as NPA and not to take possession of its assets. The petitioner has further prayed for a direction to the respondents to take appropriate steps for upgrading and restructuring its loan accounts.

At the time of notice of motion, the Court had recorded that the notice is being issued only because the petitioner had agreed and undertaken to pay ₹50 lacs by 30.6.2016 and ₹1.50 crores by 15.8.2016. On 11.7.2016, Counsel appearing for the petitioner made a statement that ₹50 lacs has been deposited and ₹1.50 crores shall also be deposited by 15.8.2016 as directed. The said amount is stated to have been deposited. On 23.8.2016, counsel appearing on behalf of the Bank submitited that if the petitioner is interested in settling the matter then an offer may be made which shall be considered by the Bank. However, on 8.9.2016, counsel appearing for the respondent- Bank stated that the proposal made by the petitioner is not acceptable to the Bank and also prayed for time to file reply. On 19.9.2016, counsel for the petitioner prayed for time to seek instructions as to whether the petitioner is prepared to pay another sum of ₹2 Crores or not? On 22.9.2016, counsel for the petitioner submitted that the petitioner is unable to pay ₹2 crores and on 26.10.2016, the following order was passed:-

> "Prayer made in the writ petition is for re-structuring the loan which in other words conveys that the liability to pay the loan is not disputed.
>
> In order to show his bona fides, petitioner is directed to produce a demand draft of ₹5 crores on the next date of hearing. Keeping in view the total liability outstanding ₹30 crores approximately.
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> Adjourned to 08.11.2016."

Counsel for the petitioner has failed to produce the demand draft of ₹5 crores as directed on 26.10.2016 and has prayed for an adjournment.

On the other hand, counsel for the respondent- Bank has submitted that there is no scope of restructuring the loan account of the petitioner because the said statement was made by the Bank through him on 8.9.2016. On that date, the following order was recorded by this Court:-

> "Learned counsel for the respondents-bank states that the proposal submitted by the petitioner, is not acceptable to the Bank and prays for time to file reply.

To come up on 26.10.2016.

In the meantime, reply be filed before the next date of hearing, with an advance copy to learned counsel for the petitioner."

Counsel for the respondent- Bank submits that in the given facts and circumstances, there is no requirement of filing reply to the petition because the proposal made by the petitioner has already been rejected by the Bank. It is also submitted that since the petitioner has not proved his bonafide in the Court, offered on 26.10.2016, therefore, the petitioner does not deserve any further sympathy in the name of equity.

I have heard both the counsel for the parties and after examining the record, am of the considered opinion that the request made by the petitioner in this case for the issuance of a mandamus cannot be granted because the petitioner, for the purpose of seeking desired relief had to show his bona fide to the Court for which he had been given an opportunity on 26.10.2016 only to produce a demand draft of ₹5 crores on the next date of hearing but the petitioner has miserably failed in it. Consequently, I do not find any merit in the writ petition.

Dismissed.

January 17, 2017 **(RAKESH KUMAR JAIN)**
renu **JUDGE**

Whether Speaking/reasoned Yes
Whether Reportable Yes/No