

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

**CWP No. 12051 of 2016
Decided on : 15.05.2017**

M/s Wingsfield Knitwears Pvt. Ltd. and others

... Petitioners

Versus

State Bank of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

PRESENT: Mr. Aalok Jagga, Advocate
for the petitioners.

Mr. Harsh Garg, Advocate
for respondent No.1 – Bank.

None for respondent No.3.

Mr. Yogesh Goel, Advocate
for respondent No. 4.

AJAY KUMAR MITTAL, J. (Oral)

The petitioners have approached this Court under Articles 226/227 of the Constitution of India, seeking writ of *Certiorari*, for quashing the order dated 12.05.2016 (Annexure P-16), passed by respondent No.2, whereby, the Securitization Application (in short 'SA') bearing SA No.15 of 2016, titled as “Wingsfield Knitwears Pvt. Ltd. Vs. State Bank of India”, filed by the petitioners, was dismissed without granting any opportunity of hearing/argument, despite making of request to argue the matter. Further, a prayer has been made for quashing the sale notice dated 13th May, 2016 (Annexure P-19), whereby, running hosiery unit, has been put to sale.

2. In view of the consensus having been arrived at between the parties, we do not consider appropriate to delve into detailed facts involved in the present case. However, the facts necessary for adjudication of the instant writ petition as mentioned therein are that petitioner No.1, a private limited company, had availed the facility of loan from the respondent-Bank. Having failed to adhere to the financial discipline, the mortgaged property

of the petitioners was put to auction. The details of mortgaged properties put to auction are as under:-

- 1. Lot 1:- Plot No.B-56, measuring 256.66 Sq. Yards, comprised in Khasra No. 32//11/1, 20/2, 21, 23/1, 33//15, 16, 25, 32//22, 40//2/1, Khata No. 120/126, 120/1/26/1, as per jamabandi for the year 2004-05, situated at Village Ayali Khurd, District Ludhiana, locality known as (Shaheed Sukhdev Singh Nagar), South City, Ludhiana standing in the name of Smt. Kanta Gumber W/o Sh. Mool Chand Gumber, vide Wasika No.6562 registered date 25/08/2010.*
- 2. Lot 2:- Basement floor flat having area of 1200 Sq. Ft. bearing No.5/17, Sarvpriya Vihar, New Delhi, as per sale deed Registration No.1625, dated 02/02/2006.*

3. This Court vide order dated 03rd June, 2016, allowed the auction to proceed but stayed the confirmation of the sale till further orders. The aforesaid properties were put to auction, in which respondent No.3 & 4 were the successful bidders, for an amount of ₹ 51 lakhs each.

4. Now, during the pendency of the writ petition, it was agreed between the parties that in case the petitioners deposit an amount of ₹ 1,10,00,000/- (i.e. ₹ 55 lakhs each) on account of the auction price for the above noted two mortgaged properties, the auction held on 03rd June, 2016 may be set aside. Learned counsel for the petitioners had submitted that the aforesaid amount can be paid to the auction purchasers on account of principle amount as well as the interest thereon, from the date of payment of amount of bid till date. Learned counsel for respondent No.1-Bank had no objection, as the amount received from the auction purchasers is lying deposited with the Bank in the fixed deposit and had also prayed that the Bank be allowed to encash the FDR along with interest accrued thereon and the Bank shall refund an amount of ₹ 55 lakhs each to auction purchasers-respondents No.3 & 4, to which the learned counsel for the petitioners pleads no objection.

5. In view of the consensus arrived at between the parties, the writ petition is disposed of by directing the respondent-Bank to pay ₹ 55 lakhs

each to respondents No.3 & 4 within a period of 10 days from receipt of certified copy of order. The properties falling under Lot-1 and Lot-2 shall be released to the petitioners by the Bank and the title-deeds handed over to the authorized representative of the petitioners. Petitioner No.2 shall appear before the Manager of respondent-Bank on 06th June, 2017, on which date, the title-deeds of the mortgaged properties falling in Lot-1 and Lot-2 shall be released after due verification.

6. The petitioners and the respondent-Bank were also *ad-idem* that for dispute relating to other loan amount, it shall be open for the petitioners to seek their remedy by filing fresh S.A. petition before the DRT due to subsequent development that has taken place. It was also agreed that the filing of the earlier petition, which was dismissed by the Tribunal will not come in the way of the petitioners and the petitioners shall be entitled to raise all the pleas as raised herein and the Tribunal shall adjudicate the same afresh after hearing the parties in accordance with law. Ordered accordingly.

(AJAY KUMAR MITTAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 15, 2017

J.Ram

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No