

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2129 of 2015 (O&M)

Date of Decision: 25.07.2017

Parveen Kumar & Anr.

... Petitioners

VS.

DRAT & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDHIR MITTAL**

Present: Mr. Pankaj Gupta, Advocate;
Mr. Robin Dutt, Advocate;
for the petitioners

Mr. Kamal Satija, Advocate for UBI

Mr. BB Bagga, Advocate for SBoP

Mr. Nitin Kaushal, Advocate
for respondent No.5/Auction Purchaser

SURYA KANT, J. (Oral)

(1) The petitioners are husband and wife. They seek quashing of the sale notice dated 02.05.2007 (P10), the orders dated 05.08.2009 (P11) and 14.08.2014 (P17) passed by the Debt Recovery Tribunal-I, Chandigarh and the Debt Recovery Appellate Tribunal, New Delhi (DRAT), respectively. Vide order dated 05.08.2009, DRT-I dismissed the Securitization Application filed by Smt. Shail Bala w/o late Sh. R.P. Goel and the DRAT upheld the said order vide order dated 14.08.2014.

(2) A brief reference to the facts may be made. Late Sh. R.P. Goel was owner of the land comprising old khasra Nos.136, 137, 142, 216 & 121 situated within the revenue estate of Jagadhri, District Yamuna Nagar. He stood as guarantor for M/s Aggarwal Food Products Ltd. – a partnership firm and mortgaged his land firstly to State Bank of Patiala and then to Union Bank of India as a collateral security. The loan account of M/s Aggarwal

Food Products Ltd. was classified as 'NPA' and action under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'the 2002 Act') was initiated by the Union Bank of India. Eventually, the mortgaged property, namely, land of the guarantor (Sh. R.P. Goel) was sold through an auction held in the year 2006. Respondent No.5 (Amit Goel) is the auction purchaser who paid ₹ 1,41,21,000/- to the Union Bank of India which was more than the dues recoverable by the said Bank.

(3) Before the above-stated auction-sale, R.P. Goel had died on 12.04.2001. His widow Smt. Shail Bala challenged the auction notice and the sale proceedings by way of SA before the DRT-I, Chandigarh. Her SA was dismissed against which she filed appeal No.254/2009. It appears that meanwhile Smt. Shail Bala also died. Her son Atul Goel, his wife and son Abhinav were brought on record as LR's of Smt. Shail Bala. As noticed earlier, DRAT also dismissed the appeal.

(4) Adverting to the petitioners' *locus standi* to challenge the above-mentioned orders and their alleged interest in the proceedings, it may be mentioned that they claim themselves to be *bona fide* purchasers of a piece of land measuring 5 kanal which they purchased from M/s Aggarwal Rice and General Mills by way of registered sale deed dated 13.02.2004. M/s Aggarwal Rice and General Mills is a partnership firm consisting of sons and other family members of late R.P. Goel. The land which M/s Aggarwal Rice and General Mill is said to have sold to the petitioners was actually a part of the land which late R.P. Goel had mortgaged with State Bank of Patiala and Union Bank of India.

(5) The question which falls for consideration is thus whether the petitioners can claim themselves to be *bona fide* purchasers?

(6) We have heard learned counsel for the parties at a considerable length and are satisfied that the instant writ petition has been filed in collusion and connivance with the legal heirs of late R.P. Goel. We say so for the reasons that firstly, the petitioners are admittedly closely related to late R.P. Goel. Petitioner No.1 Parveen is brother of wife of Atul Goel who is son of late R.P. Goel. Petitioner No.2 is wife of petitioner No.1. Secondly, the land was allegedly purchased in the year 2004 for a sale consideration of ₹ 6,25,000/-. In 2006 the entire mortgaged land measuring 21 kanal or so was sold for a consideration of ₹ 1,41,21,000. It simply suggests that the sale consideration which allegedly exchanged hands was much less than the actual market value of the property. Thirdly, the sale-consideration is shown to have been paid through a cheque which was never got encashed. Factually, no sale consideration ever passed from vendees to the vendor.

(7) We are thus satisfied that the petition lacks *bona fide* and the sale deed is nothing but a sham transaction. It was created with a view to defeat the legitimate rights of the bankers. Such a transaction cannot be accepted as genuine and legal and that too in summary proceedings under Article 226 of the Constitution.

(8) The writ petition is accordingly dismissed with cost of ₹ 50,000/-. The petitioners are directed to deposit the cost amount within one month failing which the Registry is directed to list the matter for initiation of *suo motu* contempt proceedings against them.

(9) While ₹ 25000/- of the cost amount shall be deposited in the High Court Lawyers' Welfare Fund, the remaining ₹ 25000/- be deposited in the account of High Court Employees' Welfare Association.

(Surya Kant)
Judge

25.07.2017
vishal shonkar

(Sudhir Mittal)
Judge

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |