IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.17659 of 2017.
Date of Decision: August 09, 2017

The Kurukshetra Central Co-operative Bank Ltd. ......Petitioner

versus

SDO (Civil)-cum-Assistant Collector, 1st Grade, Pehowa and another

.....Respondents

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

***

Present: Ms.Kshitija Mittal, Advocate, for the petitioner.

-.-

Surya Kant, J. (Oral)

The petitioner-Cooperative Bank assails the order dated 20.08.2015 passed by the Assistant Collector, 1st Grade, Pehowa in purported exercise of his powers under Section 8 of the Haryana Agriculture Credit Operation and Miscellaneous Provision (Bank) Act, 1973 (for short, 'the 1973 Act') as amended in the year 1978, whereby the petitioner has been directed to recover the loan amount from respondent No.2 after granting waiver of 30% in interest and 3% in penal interest.

[2] Since the petition has been filed after two years of passing of the impugned order, the petitioner-Bank has been asked to explain the inordinate delay. The only oral plea taken before us is that the file was misplaced. No such averment has been made in the writ petition. There is no plausible explanation as to why a commercial institute like the petitioner-bank has taken two years in challenging the order when ordinarily a writ of certiorari is to be instituted within six months or latest by one year.

[3] Having held so, reference to the merits of the case may also be made.

[4] The second respondent had taken a loan of Rs.19,93,000/- in the year 2008. He mortgaged his agriculture land as a security. He could not pay the loan amount and with the levy of interest at a highly exorbitant rate with penal interest, the outstanding amount as on 31.12.2013 comes to Rs.35,55,529/-. The petitioner-bank thereafter moved an application under Section 8 of the 1973 Act before the S.D.O. (Civil)-cum-Assistant Collector 1st Grade, Pehowa seeking an order for the sale of movable and immovable properties of the borrower and for the recovery of loan amount as arrears of land revenue. The power to pass such an order or to grant certain reliefs to the borrowers is vested with the Authority under the above-stated Act. It was in exercise of such power that the Assistant Collector, 1st Grade, passed the impugned order dated 20.08.2015 directing the petitioner-bank to grant to the borrower 30% waiver in the interest and 3% in penal interest. It is also an admitted fact that in deference to the order of learned Assistant Collector, 1st Grade, the 2nd respondent has deposited a sum of Rs.31,94,000/-. According to the petitioner-bank, Rs.08,11,037/- is still recoverable from him as per the original rate of interest levied by it.

[5] Having heard learned counsel for the petitioner-bank, we do not find any ground to interfere with the impugned order. As against the total outstanding amount of Rs.35,55,529/-, the 2nd respondent has already paid Rs.31,94,000/- after deducting 30% waiver in interest and 3% in the penal interest. He has thus complied with the order passed by the S.D.O. (Civil)-cum-Assistant Collector, 1st Grade, Pehowa. The petitioner-Bank apparently accepted the said order and remained silent for over two years. Still further, the 2nd respondent has already paid a substantial amount and thus there is no justification to interfere in the discretionary exercise of power by the

Statutory Authority in reducing the interest component.

Dismissed.

[SURYA KANT]
JUDGE

August 09, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No