IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 19552 of 2017 (O&M)
Date of decision: 6.9.2017

M/s Surindra Malleables Private Limited and another
.. Petitioners

v.
Small Industries Development Bank of India
.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Shailender Kashyap, Advocate for the petitioners.
Mr. Deepender Singh, Advocate for the respondent.

...

Rajesh Bindal J.

The petitioner has approached this court impugning the order dated 19.7.2017 passed by Chief Judicial Magistrate, Faridabad providing police help to the respondent for taking possession of the mortgaged property of the petitioners.

On 30.8.2017, this court passed the following order:

> "Though there might be some substance in the contention that the Civil Judge (Senior Division), Faridabad could not entertain the application under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of the Security Interest Act, 2002 but having regard to the fact that the outstanding loan amount against the

petitioner is over Rs. 8.00 crores, we are of the tentative view that this is a fit case for this court to invoke its discretionary jurisdiction and direct the handing-over of physical possession of its secured assets to the Financial Institutions unless the petitioner shows its *bonafide* and submit a time-bound payment plan.

As prayed for, list on 6.9.2017.

Let *status-quo* re: possession be maintained for one week to enable the petitioner to submit the proposal."

In the affidavit filed by Surinder Singh Ahluwalia, Director of petitioner No. 1, he sought three weeks more time to find out the potenttial buyer and offered to pay ₹ 25 lacs per month in the account. The amount due against the petitioners, as noticed in the order dated 30.8.2017, is over ₹ 8 crores.

Learned counsel for the respondent-Bank pointed out that the petitioners had never adhered to the statement made on their behalf regarding payment of the amount due. Earlier he had undertaken before Debts Recovery Tribunal, Chandigarh that the entire loan amount shall be cleared by 31.3.2017, however, nothing was paid.

Considering the aforesaid factual matrix of the case and the conduct of the petitioners being not bonafide, this court does not find any reason to interfere in the present petition, where the issue sought to be raised by the petitioners is regarding the matter having been decided by Additional Civil Judge (Senior Division), Faridabad which, according to them, was not competent. There being one Full Bench judgment of Telangana and Andhra Pradesh High Court in M/s T. R. Jewellery, a proprietary concern Rep. by its Proprietor Thiriveedhi Suresh Babu and another v. M/s State Bank of India, Vedayapalem Branch, Nellore and another, AIR 2016 Hyderabad 125, against the petitioners, whereas Madras High Court in K. Arockiyaraj and others v. Chief Judicial Magistrate, Srivilliputhur, Virudhunagar District and others, 2014(7) RCR (Civil) 120, being in their favour, the legal issue is left open.

The writ petition is, accordingly, dismissed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

6.9.2017
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No