IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 25608 of 2017 (O&M)
Date of decision: 15.11.2017

M/s Jai Shardha Rice Mills and others

.. Petitioners

v.

Bank of India and another

.. Respondents

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

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

Mr. Kamalpreet Singh Dhillon, Advocate for the respondent-bank.

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Rajesh Bindal J.

Learned counsel for the petitioners submitted that to secure the loan raised from respondent No. 1-bank, the petitioners had mortgaged rice sheller, which includes a portion in which residential house has been constructed. The residential house has its separate entry as well, as it is located on one side of the compound. One shop in Grain Market, Mehatpur, Tehsil Nakodar, District Jalandhar was also mortgaged. The bank is taking action for auctioning the aforesaid properties for recovery of the loan by taking physical possession. The petitioners do not have any objection to the action being taken by the bank. As far as taking over possession or sale of the properties, namely, the area where the rice sheller is set up and the shop in Grain Market, the petitioners will hand over possession of the aforesaid two properties to the bank within 10 days from today to enable the bank to take further action.

As far as the area, on which residential house has been constructed, which is located on one side of the compound, learned counsel for the petitioners submitted that the petitioners are ready and willing to pay the reserve price fixed by the bank for sale of the aforesaid property. In case the property is put to auction by the bank, the petitioners will offer price more than the maximum offer received by the bank. The petitioners offer ₹ one crore as the base price for the portion, where residential house is situated. In case no bid is received by the bank, the petitioners will deposit the aforesaid amount of one ₹ crore with the bank within a period of three months. 10% thereof shall be deposited within one week; another 15% within 2 weeks thereafter and the balance in total period of three months. On failure, the petitioners will hand over vacant physical possession of the area, where the residential house has been constructed to the bank within 2 weeks thereafter.

Learned counsel for the bank submitted that as per the valuation report received by the bank, the price of the residential house is ₹ 1.13 crores. The bank will put the properties owned by the petitioners for auction in three lots, namely, the portion where the rice sheller is set up; the portion where residential house is there and the shop located in Grain Market. He further submitted that if no offer is received against the house, when it is put to auction, the same shall be offered to the petitioners at the reserve price and the sale certificate for the same shall be issued in favour of the petitioners/their nominees. He further submitted that in case there is any access to the rice sheller from the residential house, the same should be closed by the petitioners. The residential house should have its separate boundary wall.

After hearing learned counsel for the parties, the present petition is disposed of in the following terms:

(i) The petitioners will hand over vacant physical possession of the entire area where the rice sheller has been constructed including the building and open areas, however, excluding the portion where the residential house is there and the vacant physical possession of the shop in Grain Market to the bank within a period of 10 days from today.

(ii) The petitioners may continue to remain in possession of the portion, where residential house has been constructed, which is located on one side of the compound where rice sheller has been constructed. However, access to the rice sheller from the residential house shall be closed within 10 days.

(iii) The bank shall be at liberty to put the properties mortgaged for sale in three lots, as suggested by learned counsel for the bank, i.e., rice sheller portion, the shop in Grain Market and the residential house.

(iv) The petitioners have offered ₹ one crore as the price for the residential house. It has further been offered that in case the bank receives any offer for more than ₹ one crore, the petitioners will pay more than that amount to the bank.

(v) The petitioners will deposit ₹ 10 lacs within one week from the date the price and the acceptance of offer is conveyed by the bank to the petitioners; another 15% shall be deposited within 2 weeks thereafter and the balance shall be paid in total period of three months.

(vi) In case the petitioners fail to offer better price than the offer received by the bank for sale of the residential house, as undertaken above within the period prescribed, they will hand over vacant physical possession thereof to the bank within a period of two weeks.

(vii) In case the house is sold in favour of the petitioners or their nominees, necessary formalities for transfer thereof shall be completed by the bank after receipt of the total sale consideration.

Ordered accordingly.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

15.11.2017
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No