

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.3538 of 2017 (O&M)
Date of Decision:- 2.11.2017

M/s N. M. Jewellers

... Petitioner

Versus

State Bank of Patiala and another

... Respondents

CORAM: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill

Present:- Mr. Puneet Sharma, Advocate, for the petitioner.

Mr. D. K. Singal, Advocate, for the respondents.

Mr. Ajaivir Singh, Advocate, for the applicant
in CM No.3184 of 2017.

Rajesh Bindal, J.

The petitioner has approached this Court challenging auction notice dated 20.1.2017, whereby the property mortgaged to secure the loan raised by the petitioner was sought to be put to auction. At the time of issuance of notice of motion, learned counsel for the petitioner had submitted that the petitioner was ready and willing to pay the amount due to the bank and prayed for some time. He deposited part of the amount immediately and certain payments were made subsequent thereto. As per the notice dated October 20, 2016, a sum of ₹ 38,62,904.14 was due from the petitioner for recovery of which the property was sought to be auctioned. During the pendency of the present petition, the petitioner has deposited substantial amount. According to the petitioner, entire amount as mentioned

in the notice has been deposited, hence, the claim of the bank stand satisfied.

Learned counsel for the bank submitted that the amount mentioned in the notice was including interest up to 25.7.2016. The interest for the period beyond that is payable, which has been calculated on reducing balance basis after adjusting the payments made by the petitioner. As on 18.9.2017, a sum of ₹ 2,10,458.69 was due from the petitioner.

Learned counsel for the petitioner, in response to the aforesaid stand taken by counsel for the bank, submitted that complete details, as to how the aforesaid amount has been calculated, has not been furnished by the bank. The business of the petitioner was not doing well on account of some internal dispute of the partners, still the petitioner having paid the entire amount due as mentioned in the notice dated October 20, 2016, the petitioner may be given some concession in the rate of interest or otherwise, whatever is permissible.

After hearing learned counsel for the parties and considering the fact that according to the petitioner he has deposited the entire amount as mentioned in the notice dated October 20, 2016 and even as per the bank only a sum of ₹ 2,10,458.69 as noticed above is due, in our opinion, the present petition can be disposed of at this stage with liberty to the petitioner to approach the bank for providing the detailed calculation, as to how the aforesaid amount is still due after the payments made by the petitioner. He shall also be at liberty to request the bank for grant of any concession, which is permissible.

The bank shall provide entire details of the calculation and also

examine the request of the petitioner for grant of any concession, as the amount due as per the notice has already been paid by the petitioner except some small amount as notice above. The auction notice dated January 20, 2017 is quashed.

A sum of ₹ 14.36 lacs was deposited in two installments by the auction purchaser in pursuance to the auction conducted on 22.2.2017. Though it is not in dispute that the amount deposited by the auction purchaser has been refunded by the bank to her, yet considering the fact that the amount remained with the bank, it shall pay interest on the same @ 7% per annum from the date of deposit till its payment.

The writ petition stands disposed of accordingly.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

2.11.2017
pankaj

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No