**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision : 10.07.2017

1. CWP-COM No. 214 of 2017 (O&M)

Rana Chawla and another ...... Petitioners

Versus

State of Punjab and others
...... Respondents

2. CWP-COM No. 204 of 2017 (O&M)

Rana Chawla and another ...... Petitioners

Versus

State of Punjab and others
...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
***

Present : Mr. Vaneet Kumar Sharma, Advocate
for the petitioners.

Mr. H.S.Sitta, Asstt. Advocate General, Punjab.

Mr. Vivek Sethi, Advocate
for respondent No.4 in CWP-COM-204 of 2017 and
for respondent No.7 in CWP-COM-214 of 2017.

***

AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned two writ petitions. Since the issues raised are the same.

These two petitions have been filed for quashing the order dated 14.06.2017 and to allow the petitioners to join the proceedings under

Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 initiated by respondent No.4/7-India Infoline Finance Limited against the petitioners.

When the matter had come up on the last date learned counsel for the petitioners had stated that the petitioners wanted to settle the dispute and the matter had been adjourned for today to enable both the parties to see if the matter could be settled.

Learned counsel for respondent No.4/7-India Infoline Finance Limited states that as on date more than a sum of Rs.3.00 crores is due.

Learned counsel for the petitioners on the other hand states that in the month of December, 2016 the representatives of respondent No.4/7-India Infoline Finance Limited had stated that they were ready to settle the whole loan for Rs.1 crore 50 lacs.

I put it to the learned counsel for the petitioners that if Rs.1 crore 50 lacs was the amount on which the respondents No.4/7-India Infoline Finance Limited was agreeable to settle, how much the petitioners would be ready to pay immediately. He states that the petitioners are ready to pay a sum of Rs.35.00 lacs within one week and another amount of Rs.25.00 lacs within two weeks thereafter the matter can proceed for negotiation and settlement.

Learned counsel for respondent No.4/7-India Infoline Finance Limited, however, is adamant that the petitioners should undertake to deposit a sum of Rs.1 crore within one month because the liability as on date as per him is more than Rs.3 crores and in case that amount is deposited the respondent No.4/7-India Infoline Finance Limited would not be averse to having talks for settlement.

Learned counsel for the petitioners is not agreeable to this.

On merits the basic grounds taken in the petition are firstly that the objections filed by the petitioners to the notice under Section 13(2) of SARFAESI Act, 2002 were not decided and secondly the District Magistrate, Ludhiana was enjoined to issue notice before taking possession. In support of the second proposition support was sought from the judgment of the Supreme Court passed in ***Harshad Govardhan Sondagar Vs. International Assets Reconstruction Co. Ltd. & ors., 2014 (6) SCC 1***. As regards the first issue it may be mentioned that in the petitions an averment has been made that the petitioners had filed objections to the notice under Section 13(2) SARFAESI Act, 2002 but no particulars thereof have been given nor a copy annexed with the petition. However, copy of the application filed by the respondent No.4/7-India Infoline Finance Limited before the District Magistrate, Ludhiana has been annexed in both the writ petitions. In that application the respondent No.4/7-India Infoline Finance Limited had specifically averred that the petitioners did not respond to the notice under Section 13(2) SARFAESI Act, 2002. In the face of that averment it was incumbent upon the petitioners to have given the particulars of any objection which they may have filed to the notice under Section 13 (2) SARFAESI Act, 2002. Having not done so no credence can be given to the assertion that they had filed objections.

As regards the second argument, the same was a case where lessees had approached the Supreme Court and consequently the judgment would have no applicability to the case of a non-lessee-borrower.

In my opinion, the offer made by the petitioners is too meager and consequently, I regret my inability to agree to grant any time to the petitioners.

Petitions stand dismissed.

Since the main cases have been decided, the pending Civil Misc. Applications, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

July 10, 2017
pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No