120.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CIVIL REVISION-1397-2018
Date of decision:28.02.2018.

SAI FOOD & ANR ... Petitioners

Versus

INDIAN OVERSEAS BANK .... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Amardeep Singh Walia, Advocate, for the petitioners.

HARI PAL VERMA, J.*(Oral)*

Present petition has been filed under Article 227 of the Constitution of India impugning the order dated 22.01.2018 whereby the application filed by the petitioner-defendants under Order 1 Rule 10 CPC, was dismissed.

The respondent-plaintiff-Bank filed a suit for recovery of ₹7,40,361/- including interest along with costs, pendente lite and future interest. While the suit was pending, petitioner-defendants moved an application under Order 1 Rule 10 CPC to implead Chief Executive Officer, Credit Guarantee Fund Scheme for Micro and Small Enterprises, as one of the defendants in the suit.

Learned counsel for the petitioners has argued that the credit facility granted to the petitioner-defendants was guaranteed by the Credit Guarantee Fund Scheme for Micro and Small Enterprises (for short, "CGFSMS"). The term loan agreement shows that credit facility upto 75% was guaranteed by CGFSMS and as per the information of petitioner-defendants, the respondent-Bank has already recovered 75% of the outstanding amount from the CGFSMS. The Bank cannot recover the entire amount from the petitioner especially once the recovery has already been effected from the CGFSMS. It is because of this reason, the necessity to implead the Chief Executive Officer, CGFSMS has arisen, as one of the defendants.

Respondent-plaintiff has submitted reply to the application filed under Order 1 Rule 10 CPC by the petitioner-defendant, that CGFSMS is not a necessary party and, therefore, need not be impleaded. It is an internal matter between the Bank and the Authority, where the Authority reassures the Bank for the credit given without any security.

I have heard learned counsel for the petitioners.

The petitioner-defendants have filed an application under Order 1 Rule 10 CPC to implead Chief Executive Officer, CGFSMS, as one of the defendants. The dispute is that 75% of loan amount is outstanding against the petitioner-defendants. If the petitioner-defendants are able to prove that the payment of 75% has already been recovered by the Bank, it would be a matter of evidence between the parties, for which, the petitioner-defendants shall have ample opportunities. A mere statement that 75% of loan amount has already been recovered by the CGFSMS is not enough to absolve the liability of the petitioner-defendants to make payment of the total loan amount to the respondent-plaintiff.

In view of above, this Court does not find any reason to interfere with the impugned order and accordingly, the present petition is dismissed.

(HARI PAL VERMA)
JUDGE

28.02.2018
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No