IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14886-2018
Date of Decision: June 01, 2018

Muktesh Enterprises and another

.....Petitioners

Versus

Bank of Baroda, G.T.Road, Phagwara and another

......Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr.Sanjeev Duggal, Advocate for the petitioners.

....

SURYA KANT, J.

Notice of motion.

[2] On our asking, Mr.Gaurav Goel, Advocate, who is present in Court, accepts notice on behalf of Mr.Suresh Goyal, Advocate respondent No.1-Bank. Let a copy of the paper-book be handed over to him during the course of day, failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

[3] The petitioner-borrowers seek quashing of the order dated 17.11.2017 passed by Debts Recovery Tribunal-III, Chandigarh, whereby their SA has been dismissed on the ground of limitation as there was a delay of 13 days in filing the same. The said order, however, is appealable before

the Debts Recovery Appellate Tribunal. Hence, we are not inclined to entertain the writ petition and relegate them to the alternative remedy as available in law.

[4] Faced with this, learned counsel submits that the loan amount recoverable against the petitioners as per Notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act') was ₹74,68,789.56/- as on 31.03.2017 together with further interest thereon. After the said Notice, the petitioners are said to have deposited a sum of ₹2,93,866 lac on 22.05.2017. In this manner, the balance loan amount is said to have been reduced to about ₹72.00 lac. The petitioners have meanwhile approached the respondent-Bank for 'One Time Settlement'. They are also willing to deposit another sum of ₹25.00 lac within one week. Keeping in view the petitioners' efforts to clear the arrears of loan, it appears that their 'OTS' offer requires sympathetic consideration by the Bank as per its Policy.

[5] The writ petition is, accordingly, disposed of with a direction that the petitioners may submit a fresh 'OTS' proposal alongwith upfront amount of ₹25.00 lac within one week and the Bank will consider the same sympathetically, particularly in view of the commitment made by the petitioners to pay the settled balance loan amount within a reasonable time. The appropriate decision shall be taken by the Bank within three weeks from the date of submission of the proposal.

[6] Though there is an opposition by learned counsel for the Bank,

but we direct that status quo re: physical possession of the secured assets be maintained for a period beyond one week from the date the Bank takes its decision on the 'OTS' offer of the petitioners, so as to enable the petitioners to avail their legal remedy.

(SURYA KANT)
JUDGE

June 01, 2018 **(SHEKHER DHAWAN)**
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1. Whether speaking/reasoned ? **Yes**
2. Whether reportable ? **No**