IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18703-2017
Date of Decision: April 03, 2018

M/s Chamkaur Rice and General Mills and another
.....Petitioners

Versus

State Bank of India and another
......Respondents

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

1.	**To be referred to the Reporters or not?**	**Yes/No**
2.	**Whether the judgment should be reported in the Digest?**	**Yes/No.**
3.	**Whether Reporters of local papers may be allowed to see the judgment?**	**Yes/No**

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Present: Mr.Vishal Sodhi, Advocate for the petitioners.

Mr.Umang Khosla, Advocate for the respondents.

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SURYA KANT, J.

The petitioners is a rice Mill to whom 'cash credit limit' facilities to the tune of ₹70.00 lacs were granted by respondent No.1-State Bank of India. As there was default in payment of over-due amount, the loan account of the petitioners was classified as 'NPA' and measures under Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act') have been taken. The aggrieved petitioners have approached this Court.

[2] The primary contention of the petitioners is that as per RBI's guidelines, their account could not be declared 'NPA' and as such the action of the Bank is illegal. On the other hand, case of the Bank is that 'cash

credit limit' was granted against hypothecation of stock, whereas no stock is available with the petitioners.

[3] It is not in dispute that pursuant to the repeated orders and opportunities granted by this Court, the petitioners have eventually deposited a sum of Rs.10.00 lacs. In these changed circumstances, the question which falls for consideration is whether the loan account of the petitioners can be regularised and if so, on what revised terms and conditions? It appears from the financial condition of the petitioners' mill and its partners that they are not in a position to pay the entire loan amount in one go. Similarly, they are not left with anything which can be further hypothecated to avail 'cash credit limit'. The rice mill is already mortgaged with the respondent-bank besides two other properties. In this view of the matter, the writ petition is disposed of with liberty to the petitioners to give a proposal to the respondent-Bank for regularisation of their loan account and such proposal may include the offer to hypothecate/mortgage some other assets in lieu of the stock which is no longer available with the petitioners. If the Bank authorities are satisfied that the loan is fully secured and the petitioners further undertake to pay the installments regularly to ensure that the account does not become over-due, in that event, their request for regularising of loan account deserves to be considered sympathetically. Needless to say that taking over possession of the rice mill may not be a viable recourse for the Bank to recover the loan amount as neither the Bank has the expertise to run the rice mill nor there are willing buyers readily available in the market to purchase such Industry. Thus keeping in view the interest of both the parties, we direct the petitioners to give the fresh and viable proposal to the Bank which can

sufficiently protect the interest of the Bank. The proposal shall be submitted within two weeks from the date of receipt of a certified copy of this order and the Bank shall consider the same as per its Policy in due course of time.

[4] Till such decision is taken by the Bank, status quo re: possession of the secured assets be maintained.

(SURYA KANT)
JUDGE

April 03, 2018 **(SHEKHER DHAWAN)**
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1. Whether speaking/reasoned ? Yes/No
2. Whether reportable ? Yes/No