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

**CWP No. 18330 of 2018
DECIDED ON: OCTOBER 17, 2018**

M/S AA AGRO ENERGY PVT. LTD. & OTHERS

.....PETITIONERS

VERSUS

PUNJAB NATIONAL BANK

.....RESPONDENT

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr. Aalok Jagga, Advocate and
Mr. Karanjot Singh Riar, Advocate
for the petitioners.

Mr. Arvind Rajotia, Advocate with
Mr. Jagdish Lal, Chief Manager,
for the respondent-Bank.

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AVNEESH JHINGAN, J

The present writ petition has been filed seeking quashing of notices dated 27.04.2017 (Annexure P-8), dated 17.05.2018 (Annexure P-18) issued under Sections 13(2) and 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') respectively and notice dated 15.06.2018 (Annexure P-28) issued in an application under Section 14 of the Act. Further a prayer has been made to quash the letter dated 12.07.2018 (Annexure P-29) whereby the proposal of the petitioners regarding clearing the outstanding dues of loan accounts, was rejected.

2. Petitioner No.1 is a Private Limited Company; petitioners No.2 and 3 are Managing Director and Director of petitioner No.1. Punjab National Bank, SCF No. 41-42, Sector 8, Panchkula, Haryana has been arrayed as respondent.

3. Petitioner No.1 company was engaged in the business of bricks and sewerage pipes; it had diversified its business, by setting up an Agro Processing Unit to carry out rice milling at Village Basma, Tehsil Banur, District Mohali, Punjab. Petitioners availed following credit facilities.

Facility	Limit
CC (Warehousing)	₹9,00,00,000/-
CC	₹15,00,00,000/-
Term Loan	₹5,30,00,000/-
Term Loan-II	₹1,95,00,000/-
Term Loan	₹2,70,00,000/-
Total	₹33,95,00,000/-

4. In order to secure the credit facilities the paddy/rice stocks were pledged and following properties were mortgaged:

(i) Land and Building (Rice Sheller), at village Basma, Tehsil Banur, Mohali, measuring 21B-9B owned by the Company inclusive of plant and machinery in the unit;

(ii) Land and building at village Kheri Gurna, Tehsil Rajpura, District Patiala measuring 26B-14B-15B owned by petitioner-Company.

(iii) SCO 86, Sector 5 Panchkula measuring 275 sq mtr.

(iv) Land and building measuring 28K-5K situated at Village Dabkori, District Panchkula in the name of Ashok Kumar Aggarwal.

5. The cash credit limit of the petitioners was reduced by the respondent-Bank on 30.03.2017. Aggrieved of the action of the respondent-Bank, petitioners filed CWP No. 9204 of 2017 before this Court. The said writ petition was dismissed as withdrawn vide order dated 11.09.2017. There was also a dispute between the petitioner company and respondent-Bank regarding value of stock available at the warehouse. In spite of various meetings between the two parties, the financial discipline was not maintained by the petitioner company. The account was classified as Non-Performing Asset (NPA) on 31.03.2017. Consequently, the respondent-Bank issued a notice under Section 13(2) of the Act on 27.04.2017. As per notice, there was an outstanding amount of ₹32,80,69,052/- as on 24.04.2017. After issuance of notice there were negotiations between the parties and petitioners submitted a proposal for settlement. Ultimately, the respondent-Bank on 07.05.2018 issued notice under Section 13(4) of the Act for taking over the physical possession of the secured assests.

6. Petitioners filed a writ petition bearing CWP No. 14171 of 2018 stating that they are ready and willing to clear all the dues. The said writ petition was disposed of vide order dated 30.05.2018 with a direction to respondent-Bank to consider the proposal submitted by the petitioners. Meanwhile, petitioner-company received a notice dated 15.06.2018 from District Magistrate, SAS Nagar, stating that the bank has filed an application under Section 14 of the Act for taking over the physical possession of the secured assets. Petitioners filed a proposal for rescheduling the loan accounts, but the said proposal was rejected vide order dated 07.06.2018.

7. Aggrieved against the recovery proceedings as well as rejection of

the proposal, present writ petition has been filed.

8. On 26.07.2018, notice of motion was issued. Learned counsel for the petitioners submitted that petitioners had made the payment of ₹50,00,000/- upto 30.06.2018 and deposited another sum of ₹55,00,000/- by 16.07.2018. It was further submitted that an amount of ₹60,00,000/- would be paid by 31.07.2018.

9. On 01.08.2018, learned counsel for the petitioners pointed out that as per the statement of the petitioners before this Court, ₹60,00,000/- was to be deposited by 31.07.2018 but petitioner has deposited ₹80,00,000/- whereas the respondent-Bank has not released any of the pledged stocks. The learned counsel for the respondent-Bank candidly replied that no stocks have been released after 30.06.2018.

10. At this stage, it would be pertinent to note that in order to secure the credit facilities paddy/rice stocks were pledged. The loan account worked in a system that on deposit of particular amount, the equivalent value of stock was to be released by the respondent-Bank. But after 30.06.2018 in spite of deposit of more than ₹1.3 crore by the petitioners, no stock was released.

11. During the pendency of instant writ petition, a civil miscellaneous application was filed by the petitioners for placing on record the auction notice to show that the respondent-Bank has issued auction notice to sell the stock of rice lying in the warehouse. In the auction notice, 11 stacks of rice were separately mentioned and reserve price of each stack was fixed separately. An explanation was sought from the Chief Manager as to why stocks were not being released in spite of deposit of amounts by the petitioners. No satisfactory reply was furnished by the respondent-Bank and as an interim measure this

Court vide order dated 09.08.2018, ordered the release of first four stacks as mentioned in the auction notice, after considering that the petitioners had deposited a sum of ₹1,65,95,912/- and was seeking the release of goods worth ₹1,28,95,131/-.

12. During the pendency of the present writ petition, petitioners have produced two more demand drafts equivalent to the reserve price of another two stacks and hence, stacks mentioned at Sr. No.5 and 6 of auction notice were also released. Today, a demand draft of ₹70,00,000/- has been produced by learned counsel for the petitioners, the same has been handed over to learned counsel for the respondent-Bank, who has further handed over the same to Mr. Jagdish Lal, Chief Manager who is present in Court. The Chief Manager has submitted that stack mentioned at Sr. No. 7 in the auction notice would be released.

13. Keeping in view the facts and circumstances of the case, the present writ petition is disposed of with the direction that the petitioners shall deposit the amounts equivalent to the reserve price for the remaining stacks as per following schedule:-

Sr. No.	Commodity Name	Approx Quantity upto (M.T.)	Reserve price	Date to deposit draft on or before
8	Rice Steam PUSA 1121	115.15	₹78,21,563/-	30.11.2018
9	Rice Steam PUSA 1121	238.24	₹1,01,82,316/-	24.12.2018
10	Rice Steam PUSA 1121	140.14	₹95,19,009/-	31.01.2019
11	Rice Steam PUSA 1121	252.15	₹1,71,27,550/-	28.02.2019

14. On deposit of each amount, the respondent-Bank shall immediately

release the stack of rice for which it has received the payment. After the release of the stocks, the petitioners shall approach the respondent-Bank with a proposal to regularize/clear the outstanding dues. The proposal shall be made on or before 15.03.2019. On receipt of proposal, the respondent-Bank shall consider the same sympathetically and take a decision after providing an opportunity of hearing to the petitioners and by passing a speaking order.

15. It is, however, clarified, that in case of default by the petitioners to make payment as per schedule given above, the bank shall be at liberty to proceed in accordance with law.

16. Learned counsel for the petitioners submitted that in order to carry out the custom milling of various State agencies, petitioners need a NOC, to be issued by the respondent Bank. Petitioners shall submit an application for grant of NOC by the respondent-Bank and the same shall be considered and decided expeditiously by the respondent-Bank.

17. Writ petition is disposed of, accordingly.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 17, 2018
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No