HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.20112 of 2017 (O&M)
Date of Decision: 19.02.2018

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M/s Durga Rice Mills & Anr. ...Petitioners

VS.

State Bank of India ... Respondent

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Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Shekher Dhawan

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Present: Mr. Manoj Kumar Sood, Advocate for the petitioners

None for the respondent

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SURYA KANT J. (Oral)

(1) The petitioners have approached this Court seeking a direction to consider the proposal dated 28.08.2017 for One Time Settlement of their loan account. The petitioners availed Cash Credit Limit facility from the respondent-Bank of a term loan of ₹ 60 lacs. Due to default in payment of timely dues, measures have been taken under Section 13(2) & 13(4) of the SARFAESI Act, 2002 by the Bank. The petitioners on receipt of such notices submitted a proposal dated 28.08.2017 for OTS with a request that as against the contractual interest rate of 10.65%, the Bank was charging interest @ 19.25% which was highly excessive. The petitioners thus offered to pay the due amount along with contractual rate of interest. As their proposal was not considered, the instant writ petition has been filed.

(2) This Court on 06.09.2017 took notice of the fact that unpaid loan was to the tune of ₹ 31,40,213/-. Out of which the petitioners agreed to pay ₹ 3 lacs upto 29.09.2017. Thereafter the petitioners have deposited some more amounts and in this manner as of now they have paid ₹ 23,35,000/-.

(3) No one appears on behalf of the respondent-Bank. In this view of the matter, when there is no defence or explanation on behalf of the Bank as to why such an exorbitant rate of interest is being levied, the instant writ petition is allowed in part and the impugned action initiated under Section 13(2) and 13(4) of the SARFAESI Act, 2002 is set aside with a direction to the respondent-Bank to consider the OTS proposal submitted by the petitioners. The Bank is further directed to consider the petitioners' request regarding rate of interest sympathetically and take an appropriate decision within *three months* from the date of receipt of certified copy of this order. Till such time, no coercive action shall be taken though the petitioners shall be obligated to pay the balance amount along with agreed rate of interest as soon as the Bank serves them with a revised notice.

(Surya Kant)
Judge

19.02.2018
vishal shonkar

(Shekher Dhawan)
Judge

1. Whether speaking/reasoned? ***Yes***
2. Whether reportable? ***No***