213 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 23407 of 2017(O&M)
Date of decision : 23.01.2018

M/s S.S.Builders .... Petitioner

versus

Punjab National Bank and others .... Respondents

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE DR.SHEKHER DHAWAN
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Present: Mr. Raj Karan Singh Verka, Advocate for the petitioner.

Mr.R.S.Bhatia, Advocate for respondent No.1.

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SURYA KANT, J. (Oral)

The petitioner availed over draft limit facility from the respondent-bank to the tune of ₹ 3.20 crores. The loan was availed in the year 2012. The petitioner was served with a notice under Section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(known as the 'SARFAESI Act') on 26.02.2015 directing to deposit a sum of ₹ 3,55,66, 859.55 as its account was declared NPA. The petitioner gave an offer for settlement and also deposited Rs. 1,70,00,000/-with the bank after selling one of the mortgaged properties.

The dispute eventually landed before the Debts Recovery Tribunal-II, Chandigarh in SA No. 519 of 2015 filed by the petitioner. The said SA was disposed of by the Tribunal on 25.10.2016 in following terms:-

> " In view of the statement made by the applicant, the applicant is directed to pay Rs. 3,55,66,859.55 as per notice with simple interest @ 12% p.a. on reducing balance from 01.02.2015 along

with a costs of Rs. 50,000/- to be paid with the final amount on or before 15.04.2017

Status quo regarding the property be maintained till 10.12.2016.

In case cheque is dishonoured, status quo of the property shall stand automatically vacated and the bank is at liberty to proceed in accordance with law.

In case the payment is not made on or before 10.12.2016 the status quo shall stand vacated automatically. However, in case the payment is made on or before 10.12.2016 the status quo shall stand automatically extended till 15.04.2017."

The petitioner has further paid more than ₹ 1 crore after passing of the afore-stated order by the Tribunal but as per the Bank, the petitioner is still liable to pay a sum of ₹ 1, 85 83, 441.04 out of which the petitioner has again deposited more than ₹ 40 lacs.

The solitary dispute which survives in the instant proceedings revolves around the rate of interest levied on the petitioner. While the bank has levied compound interest, the petitioner claims that the balance loan amount was payable with simple interest @ 12% p.a. on reducing balance from 1.2.2015 onwards as per the order passed by the Debts Recovery Tribunal-II, Chandigarh, referred to above.

Since a substantial part of the loan amount has been paid by the petitioner, it appears to us that the question whether the petitioner should be ordered to pay simple interest or compound interest due to its failure to adhere to the time line fixed by D.R.T., can be left to the discretion of the D.R.T. to determine the same. Consequently, order dated 25.10.2016 passed by the Debts Recovery Tribunal-II, Chandigarh is modified to the limited extent that let the interest liability of the petitioner be redetermined in accordance with law and after going through its statement of account to be produced by the bank. Let an appropriate order be passed by the Tribunal within a period of three months. Parties are directed to appear before the Debts Recovery Tribunal-II, Chandigarh on 19.02.2018. Till such time, the confirmation of sale shall remain stayed. The respondent-bank shall, however, be at liberty to return 25% of the sale consideration deposited by the auction purchaser without any further requirement to re-auction the mortgaged property.

Petition stands disposed of accordingly.

CM-15588-2017

Since the main case has been decided, this application has become infructuous and is dismissed as such.

(SURYA KANT)
JUDGE

(SHEKHER DHAWAN)
JUDGE

January 23, 2018
sunita

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No