HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4965-2014
Date of Decision: February 06, 2018

State Bank of India and others .....Petitioners

Versus

State of Punjab and others
......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.R.K.Chopra,Sr. Advocate with
Mr.Vikas Chatrath, Ms.Suman Rudra and Ms.Shalini Verma
Advocates for the petitioners.

Mr.Sahil Sharma, DAG, Punjab.
Mr.Anurag Chopra, Advocate for respondent No.4.
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SURYA KANT, J.

Petitioner No.1-State Bank of India and its Officers are aggrieved by the action of Ludhiana police which has registered FIR No.13 dated 21.01.2014 at Police Station Sahnewal, District Ludhiana, against them at the instance of their borrower (respondent No.4)

[2] The facts are broadly admitted. Respondent No.4-borrower availed two loan facilities from petitioner -Bank comprising 'Term Loan' of ₹6.00 crores and 'Cash Credit Limit' of ₹2.00 crores in November 2008. As the borrower failed to deposit the due installments, its both the accounts were classified as 'NPA' and measures under Sections 13(2) and 13(4) of the

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act') were initiated. Thereafter the Bank applied to District Magistrate, Ludhiana, under Section 14 of the SARFAESI Act, who vide order dated 15.01.2013 appointed Tehsildar, Ludhiana alongwith a police team for taking over physical possession of the 'secured assets' and to hand over the same to Bank. The said order was complied with and physical possession of the 'secured assets' comprising factory premises alongwith a shop was handed over to the petitioner-Bank. An inventory of all the items as well as valuation report was also prepared on 05.03.2013. The premises were fully sealed and security agency was deployed to safeguard the assets.

[3] Apparently with a view to arm-twist the Bank authorities and in collusion and connivance with the local police, respondent No.4-borrower got registered FIR No.13 dated 21.01.2014 at Police Station Sahnewal, District Ludhiana, alleging that some of the items lying in the factory/shop premises were missing.

[4] The aggrieved Bank and its Officers approached this Court on 18.03.2014. A Division Bench of this Court stayed the proceedings in the above-mentioned FIR and directed the Investigating Officer to remain present in Court with case diary. On the next date of hearing, i.e. May 05, 2014, it was informed that the only information obtained/investigation done by the police till then was that it got the inventory list from the Bank, which in any case was already available.

[5] Thereafter, the premises of the 'secured assets' were inspected and it has been found that nothing was indeed missing and all the items as

per the inventory list are lying intact. Learned counsel for the Bank states at the Bar that whenever the secured assets will be auctioned by the Bank in accordance with law, all the items will be displayed/sold as per the inventory list.

[6] As the facts speak for themselves, the registration of FIR in such like cases is clearly an abuse of police power who have no business to inter-meddle in civil matters, especially when no prima facie offence of theft or destruction of secured assets was made out.. Registration of FIR on the basis of bald statement of the borrower shows that the impugned action lacks bona fide. Consequently, FIR No.13 dated 21.01.2014 registered at Police Station Sahnewal, District Ludhiana, alongwith all consequential proceedings, if any, are hereby quashed.

[7] At this stage, Mr.Chopra, learned senior counsel for the Bank informs that meanwhile Debts Recovery Tribunal-II, Chandigarh, in OA No.508 of 2018 filed by the petitioner-Bank against the borrower/ guarantors has vide its judgment dated 27.06.2016 decreed its claim for a sum of ₹10,44,10,240.00 alongwith simple interest @ 15% on reducing balance and a recovery certificate for the said amount has also been issued by DRT-II on 27.06.2016. It is stated that since the borrower(s) has not paid even a penny towards its loan liability, the recoverable dues as on date are more than ₹14 crores.

[8] There appears to be now no legal impediment against auctioning of the secured assets and the petitioner-Bank is well within its right to auction such assets in accordance with law. The Commissioner of Police, Ludhiana, is directed to ensure that police Officer do not inter-

meddle with the civil disputes between the petitioner-Bank and respondent No.4-borrower. The Deputy Commissioner-cum-District Magistrate, Ludhiana, as well as Commissioner of Police are further directed to provide full assistance to the petitioner-Bank in the auctioning of secured assets, if need be.

(SURYA KANT)
JUDGE

February 06, 2018 **(SHEKHER DHAWAN)**
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1. **Whether speaking/reasoned ?** **Yes/No**
2. **Whether reportable ?** **Yes/No**