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

**CWP No.22968 of 2018
Decided on 10.09.2018**

M/s CCC Infrasys Private Limited, New Delhi and others

Petitioners

Versus

Punjab National Bank, Sector 15, Gurugram and others

Respondents

* * *

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

Present : Mr. Aalok Jagga, Advocate
for the petitioners.

Mr. C.S. Pasricha, Advocate
for the respondent-bank.

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AVNEESH JHINGAN, J.

The present writ petition has been filed for quashing of decision dated 19.02.2018 (Annexure P-22) passed by respondent No.3, order dated 14.08.2018 (Annexure P-24) passed by respondent No.2 and order dated 24.08.2015 (Annexure P-27) for providing help to the bank to take over physical possession of the mortgaged house of the petitioners.

2. Petitioner No.1 is a private limited company; petitioner No.2 is the Director of the company and petitioner No.3 is guarantor to the loan. Punjab National Bank, Sector 15, Gurugram; District Magistrate, Gurugram and the Chairperson of Committee constituted

under the Framework of Revival & Rehabilitation of Micro, Small & Medium Enterprises c/o Punjab National Bank, New Delhi (hereinafter referred to as the 'designated Committee') have been arrayed as respondents No.1 to 3 respectively in the writ petition.

3. Petitioner No.1 is a private limited company engaged in engineering services. The petitioner availed cash credit limit of ₹4.50 crores from respondent No.1-bank. In order to secure the credit facility, petitioner No.3 mortgaged his residential house No. 412A, Block-C, Sushant Lok, Phase-1, Gurugram.

4. Petitioner No.1 suffered losses and approached the respondent No.1-bank on 20.03.2016 for restructuring the credit limit. On 17.04.2016, petitioner requested the respondent No.1-bank to place the matter before the designated Committee under the guidelines dated 17.03.2016 issued by Reserve Bank of India regarding Framework of Revival & Rehabilitation of Micro, Small & Medium Enterprises (hereinafter referred to as 'the scheme').

5. There was correspondence between the respondent No.1-bank and the petitioner regarding submitting certain documents.

6. Being aggrieved of matter not being put up before the designated Committee as per the Scheme, petitioner filed CWP No. 21519 of 2017. The writ petition was disposed of with liberty to the petitioner to complete the requisite documents and directing the respondent No.1-bank to place the matter before the designated Committee and to take a final decision within one month thereafter. In the meantime, taking over of the physical possession of the property in dispute was stayed. The operational part of the order is

quoted below :-

“After hearing learned counsel for the parties, in our opinion, the present petition can be disposed of giving liberty to the petitioner to complete requisite documents, as required by the bank, within a period of one week from receipt of copy of the order. In case of submission of documents or on failure of the petitioner to comply with the requirements, the bank shall be at liberty to place the matter before the committee and take a final decision within a period of one month thereafter.

Ordered accordingly.

Till such time final decision is taken by the committee concerned, the proceedings under Sections 13 and 14 of the Act may continue, however, the actual physical possession of the property in dispute shall not be taken. In case of rejection of the request made by the petitioner, the bank shall be at liberty to proceed further in the matter and the petitioner shall be at liberty to avail of its appropriate remedy in accordance with law.”

7. After the order by this Court, the petitioners submitted some documents. The bank also demanded certain other documents.

8. Notice was issued to the petitioners for attending the meeting of the designated Committee on 19.02.2018. Admittedly the petitioners attended the said meeting but did not sign the minutes of the meeting as the petitioners apprehended that the designated Committee has only called the petitioner for rejection of the proposal.

9. After rejection of the proposal, the respondent No.1-bank moved an application before respondent No.2 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act'). On

the application, an order was passed on 14.08.2018 to provide help to take over the physical possession of the mortgaged property.

10. Aggrieved of the rejection of the proposal by the designated Committee, the petitioner moved a review application before the designated Committee on 24.08.2018.

11. During the pendency of the review application, the petitioners have filed the present writ petition.

12. Learned counsel for the petitioners contended that the proposal was arbitrarily rejected. The designated Committee has committed factual error by wrongly recording that proposal submitted by the petitioner was incomplete. He argued that all the documents demanded by the respondent No.1-bank were provided by the petitioners. Learned counsel for respondent-bank contended that the respondent No.1-bank while rejecting the proposal took into consideration various factors including the fact that petitioner No.1 has been routing its sale proceeds through current account maintained in some other bank. The relevant portion of the minutes of the meeting of designated Committee relied upon is reproduced as under:-

“Party informed that their business is running but on a very low scale. They informed that they are routing the sale proceeds through a current account maintained with some other bank. The party refused to maintained the name of the bank with which they are maintaining the current account.”

13. In the present writ petition the petitioners have raised

disputed questions of fact. Moreover, a review application against the impugned decision of the designated Committee is pending.

14. The petitioners have raised disputed questions of fact and the petitioner is already availing remedy of review. No case is made out for interference in exercise of writ jurisdiction by this Court under Article 226 of the Constitution of India.

15. Hence, the writ petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 10, 2018

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Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No