203

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9020 of 2018
Decided on 29.08.2018

M/s. Hotel Sky Inn, Hisar and others

Petitioners

Versus

State of Haryana and others

Respondents

* * *

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

Present : Mr. Ajay Jain, Advocate for
the petitioners.

Mr. Rakesh Gupta, Advocate
for the respondents.

* * *

AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of letter dated 28.03.2018 (Annexure P-4).

2. The petitioner No.1 is a partnership firm, petitioner No.2 is one of its partner and Petitioner No.3 is the guarantor. State of Haryana; Deputy Commissioner-cum-District Magistrate, Hisar; Tehsildar-cum-Executive Magistrate, Hisar, Superintendent of Police, Hisar; Station House Officer, Police Station, Hisar, State Bank of India (Stressed Assets Recovery Branch), Chandigarh and State Bank of India, Small and Medium Enterprises Branch, Hisar have been arrayed as respondents No.1 to 7 respectively in the writ petition.

3. The petitioners No.1 and 2 took a loan of ₹2 crores from respondent No.7.

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4. The petitioners committed default in repayment of loan and the account was classified as Non-Performing Asset (NPA) on 28.06.2015. The respondent-bank issued notice dated 29.06.2015 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). As per notice, there was an outstanding amount of ₹2,09,26,690/- as on 29.06.2015. Thereafter, notice dated 02.09.2015 under Section 13(4) of the Act was issued. Respondent No. 7 moved an application under Section 14 of the Act before respondent No.2. The application was allowed vide order dated 12.10.2015 and respondent no.3 was directed to take over the physical possession of the mortgaged property with the assistance of the police.

5. As the possession was not being taken over, the respondent No.7-bank filed CWP No. 5850 of 2018. The petition was disposed of vide order dated 12.03.2018. The operative portion of the order is reproduced as under:

> "W*ith a view to give one and last opportunity to the borrowers to settle their loan account, it is directed that let the petitioner-bank convey the minimum amount acceptable to it as a part of the settlement as per its scheme/policy, preferably within one week. Respondent Nos.6 to 8-borrowers will respond to the said offer within two weeks and if acceptable, shall deposit the upfront amount within four weeks. However, if no such settlement is accepted, respondent Nos.2 to 5 are directed to act in accordance with law and give effect to the order dated 12.10.2015 within a period of one month from the date of failure of the settlement proposal.*
>
> *The writ petition stands disposed of*

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accordingly."

6. In compliance with the order of the High Court, the respondent No.6 conveyed to the petitioners, the minimum amount payable to the bank. The petitioners had grievance against the said letter and hence approached respondent No. 6 to issue a fresh letter conveying the minimum balance amount for settlement of account. Thereafter, the present writ petition has been filed.

7. Notice of motion was issued. Learned counsel for respondents No. 6 and 7 submitted that the bank came up with a new One Time Settlement proposal. Under the new policy, the bank offered a proposal to the petitioners and the same has been accepted by the petitioners. It was further stated that in compliance with the proposal, the petitioners have deposited certain amounts.

8. In view of the statement made by the learned counsel for respondents No.6 to 7, the writ petition has been rendered infructuous.

9. However, it is clarified that the petitioners would be at liberty to revive the writ petition if the statement made by the respondents No. 6 and 7 is found to be incorrect.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

29.08.2018
pankaj baweja

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No

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