

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4522 of 2016 (O&M)
Date of Order:11.07.2018

M/s True Polymers Limited

..Appellant

Versus

Haryana Financial Corporation & Others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S.Sathi, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

C.M.No.11755-C of 2016

Prayer in this application is for condonation of delay of 94 days
in filing the appeal.

For reasons mentioned in the application, which is supported by
an affidavit, the delay of 94 days in filing the appeal is condoned.

Application is allowed.

MAIN

Plaintiff-appellant filed a suit for declaration challenging sale
of the property by defendant nos.1 and 2 in exercise of powers under
Section 29 of the State Financial Corporation Act, 1951.

Plaintiff-company defaulted in payment of the loan and on
account thereof possession of the premises was taken over by the Financial
Corporation on 24.01.2004. Process to put the unit to sale was initiated.
Public notices were given for inviting bids from the intended purchasers.

Public notices were published on 13.12.2004 and 17.01.2005. The

Financial Corporation received a bid of Rs.27,50,000/- on 17.01.2005. However, since Financial Corporation was not satisfied, therefore, once again a public notice was given on 10.02.2005 in leading newspapers. Financial Corporation received highest bid of Rs.35,50,000/- which was accepted by the Corporation but as an abandoned caution the plaintiff was given notice to bring better buyer. Plaintiff sponsored a better bid of Rs.36,50,000/- and therefore, the highest bid submitted was cancelled and once again a fresh notice was issued in the leading newspapers. In the aforesaid auction which was fixed for 25.04.2005, highest bid of Rs.43,50,000/- was received from defendant no.4, which was accepted by the Corporation. On receipt of the sale consideration, credit was made in the account of the plaintiff-company. This action of the Financial Corporation has been subject matter of challenge in the present suit filed for declaration.

Court has noticed that although the plaintiff has repeatedly pleaded that the unit has been sold at throw away prices, however, he could not bring any buyer who was ready to purchase the property for a higher price. The court further noticed that when the plaintiff appeared in the evidence, he apart from levelling allegations against the officials of the Financial Corporation, clearly evaded answering material questions when put in cross-examination. Keeping in view the aforesaid facts, both the courts below have dismissed the suit.

This court has heard learned counsel for the appellant at length and with his able assistance gone through the judgments passed by the courts below.

Learned counsel for the appellant apart from reiterating that the

property has been sold at throw away price has submitted that in fact the sale was conducted in connivance with officials of the Financial Corporation and respondent nos.3 and 4. However, when requested to point out where is this argument raised before the courts below, learned counsel for the appellant failed to do so. Learned counsel for the appellant has also submitted that the sale deed has been executed in favour of respondent no.3, whereas the bid was given by respondent no.4. However, when counsel was requested to point out whether such argument was ever raised before the courts below, learned counsel failed to point out. While deciding regular second appeal, this court cannot entertain fresh submissions which were not pressed/raised before the courts below.

Both the courts have found that the plaintiff-company has been making all efforts to frustrate the sale of the property although sufficient indulgence was shown by the Financial Corporation. The courts have further noticed that once the plaintiff-company defaulted, substantial discount was given and offer was made to settle the amount for lesser amount, however, the plaintiff failed to latch on to the opportunity given.

In these circumstances, there is no good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

July 11, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No