

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-2361-2019

Date of Decision: 4.2.2019

Harinder Singh Talwar

...Petitioner

Versus

Bank of India and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Ashok Singla, Advocate and
Mr. Aakash Singla, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ of certiorari for quashing the sale proclamation dated 6.12.2018 (Annexure P-4) issued by respondent No.6 putting his property for auction for 25.2.2019 for recovery of ₹ 15,91,45,222/- along with interest from respondents No.2 to 5.

2. A few facts necessary for adjudication of the instant petition as narrated therein may be noticed. Respondents No.2 to 5 had obtained loans/ credits from respondent No.1 in the name of Arvind Talwar Machine Tools Pvt. Ltd.-respondent No.2. They had defaulted in repayment of the loan amount. Respondents No.3 to 5 had also sold the machinery purchased in the name of respondent No.2 despite the same being mortgaged with respondent No.1. Respondents No.2 to 5 taking the benefit of their fiduciary relationship got the signatures of the petitioner on some papers

and put him as second guarantor in the loan transaction with respondent No.1. The petitioner moved a complaint to the police for registration of a case against respondents No.2 to 5. On the basis thereof, FIR No. 295 dated 5.11.2014 under Sections 420, 406, 120B IPC and 465, 468, 471 IPC (added lateron), Police Station City Kapurthala, was registered. The matter was investigated by the police and after obtaining the report from the handwriting and finger print expert, final report dated 7.2.2015/12.4.2016 (Annexure P-1) under Section 173 of the Code of Criminal Procedure was presented in the Court against respondents No.4 and 5 whereas respondent No.3 was declared a proclaimed offender. Various other cases were also registered against respondents No.2 to 5. On the basis of the final report, charge sheet dated 15.11.2016 (Annexure P-2) was framed against respondents No.2 to 5. Respondent No.1 initiated recovery proceedings against the petitioner and respondents No.2 to 5. Vide order dated 23.10.2017 (Annexure P-3), recovery certificate was issued for recovery of ₹ 15,91,45,222/- along with 12% simple interest. The petitioner challenged the said order by filing Appeal No. 521-2018 which is pending for 22.2.2019. During the pendency of the said proceedings, respondent No.6 issued sale proclamation notice dated 6.12.2018 (Annexure P-4) putting on auction the properties earmarked as properties 'C' and 'D' in the notice for 25.2.2019. Hence, the present writ petition.

3. After hearing learned counsel for the petitioner, we do not find any merit in the writ petition.

4. Admittedly, the Debts Recovery Tribunal (in short “the DRT”) vide order dated 23.10.2017 had drawn up the recovery certificate in OA-2550-2017 for the recovery of ₹ 15,91,45,222/- along with 12% simple

interest per annum on reducing balance. The petitioner has availed remedy of appeal challenging order dated 23.10.2007 before the appellate authority in which next date of hearing has been fixed as 22.2.2019. The sale proclamation notice dated 6.12.2018 vide which auction of secured assets has been fixed for 25.2.2019 is as a consequence of recovery certificate issued vide order dated 23.10.2017 (Annexure P-3) passed by the DRT. The petitioner is already in appeal before the appellate authority challenging the order dated 23.10.2017 passed by the DRT and by way of present writ petition is adopting parallel proceedings which is legally not permissible .

5. In view of the above, no ground for interference by this Court is made out. Accordingly, finding no merit in the writ petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

February 4, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No