

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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**CWP-13961-2019 (O&M)**  
**Date of Decision: 25.11.2019**

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M/s Bladder India and another

..... Petitioners

Vs.

State Bank of India and another

..... Respondents

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**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN**  
**HON'BLE MR.JUSTICE SUVIR SEHGAL**

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Present: - Mr.Amit Aggarwal, Advocate,  
for the petitioners.

Mr.Gaurav Goel, Advocate,  
for respondent No.1.

Mr.Amit Mehta, Sr. DAG, Punjab,  
for respondent No.2.

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***RAKESH KUMAR JAIN, J. (ORAL)***

The petitioners are aggrieved against the order dated 29.10.2018 passed by the Additional Deputy Commissioner, Jalandhar by which the application filed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short 'the Act'] has been allowed.

In brief, the petitioners-firm had availed two loan facilities, namely, cash credit limit of ₹35 lakh and term loan of ₹75.50 lakh and in lieu thereof, mortgaged the factory land and building measuring 30 marla 125 sq. ft. situated at Kapurthala road, Jalandhar. The accounts of the petitioners were declared as NPA on 27.09.2014, followed by notices issued under Sections 13(2) dated 4.2.2015 and Section 13(4) of the Act dated 1.6.2017. The petitioners were informed by the Bank on 16.8.2018 about the

OTS scheme by which the petitioners were asked to pay ₹64,63,885/- for which they were required to deposit minimum 5% of the OTS amount as an upfront fee. The offer made by the respondents was accepted by the petitioners on 25.9.2018 but the petitioners were required to deposit 20% of the OTS amount i.e. ₹12,92,777/- on 8.11.2018 and the remaining 80% amount of the OTS i.e. ₹51,70,690/- till the month of April 2019. The case of the respondents is that not only the petitioners failed to deposit 20% of the OTS amount by the due date but also 80% amount was not deposited in terms of the OTS proposal accepted by the petitioners. The OTS was thus cancelled vide letter dated 19.4.2019. However, during the pendency of the OTS proceedings, application under Section 14 of the Act was filed before the District Magistrate on 28.08.2018 which was allowed vide order dated 29.10.2018. The said order has been challenged by the petitioners in this petition. Again in the year 2019, the petitioners were given a chance to apply under the OTS-2019 Scheme and this time the OTS amount was reduced to ₹56,00,800.50 from ₹64,63,885/-. The offer made by the respondent/bank was not accepted by the petitioners as they failed to pay the minimum 5% amount towards the upfront fee.

Counsel for the respondents has thus submitted that the petitioners had failed to avail the benefit of OTS scheme both at the time of OTS-2018 and 2019 and have no reason to assail the order passed by the District Magistrate on the ground that it is premature.

Counsel for the petitioners, however, has submitted that the offer under the OTS-2018 was made on 16.8.2018 and the application under Section 14 of the Act before the District Magistrate was submitted on 28.8.2018 which means that the action of the respondents was premature.

We have heard counsel for the parties and after examining the record, are of the considered opinion that there is no merit in the petition because the application before the District Magistrate was filed on 28.8.2018 but before the said application could have allowed, the OTS-2018 was accepted by the petitioners on 25.9.2018 as per which the petitioners were required to deposit 20% of the OTS amount upto 8.11.2018 but not only the petitioners failed to deposit 20% of the OTS amount by the due date but also failed to deposit the remaining 80% of the OTS amount. The respondents did not take any action to take possession and again made an offer to the petitioners under the OTS-2019 which was not accepted by the petitioners as they failed to deposit 5% of the upfront fee. The aforesaid facts and circumstances indicates that the petitioners had never been ready and willing to accept the offer made by the respondents under OTS-2018 and 2019 as OTS-2018 was though accepted by the petitioners on 25.9.2018 but they failed to settle the accounts and for that now making all lame excuses that the act of the respondents is premature.

In view of the above, the present petition is hereby dismissed with cost of ₹20,000/-, which shall be deposited by the petitioners with the Registry of this Court.

**(RAKESH KUMAR JAIN)**  
**JUDGE**

**(SUVIR SEHGAL)**  
**JUDGE**

**25.11.2019**  
*Vivek*

*Whether speaking /reasoned* : *Yes/No*  
*Whether Reportable* : *Yes/No*