

CWP No.14105 of 2019

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.14105 of 2019
Date of decision:27.11.2019

M/s Piyush Overseas Pvt. Ltd. and another ... Petitioners

Vs.

State Bank of India ... Respondent

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

Present:- Mr. Parvez Chugh, Advocate
for the petitioners.

Mr. Rakesh Gupta, Advocate
for the respondent.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioners are the borrowers and guarantors who are aggrieved against the auction notice dated 16.03.2019 (Annexure P-4) as well as the letter dated 02.05.2019 (Annexure P-5) by which sale/auction of the property has been confirmed on the ground that petitioners are willing to pay the auction amount alongwith reasonable interest. At the time of notice of motion, the following order was passed by this Court on 24.05.2019:-

“Learned counsel for the petitioners inter alia states that the petitioners are prepared to discharge the outstanding liability in due course in installments.

In order to show the bona fides, a demand draft bearing No.“255635”, dated 23.05.2019, drawn in favour of the

respondent-Bank, for a sum of ₹ 31,00,000/- has been produced in Court today. Photocopy of the same is taken on record. However, the Demand Draft in original has been returned to the learned counsel for the petitioners with the direction to deposit the same with the respondent-Bank within a period of one week. It is, however, clarified that the respondent-Bank shall be entitled to encash the same without prejudice to its rights in the pending writ petition.

Notice of motion to the respondent for 01.08.2019.

Notice regarding stay as well.

Process dasti only.

In the meantime, status quo, be maintained till the next date of hearing.”

However, on 01.07.2019, there was some modification in the order dated 24.05.2019 and the order dated 01.07.2019 is reproduced as under:-

This application has been moved under Section 151 CPC for modification of order dated 24.05.2019 to the extent that the applicant-petitioners were ready to pay the auction amount whereas inadvertently it was mentioned as outstanding amount.

Learned counsel for the applicant-petitioners submits that due to inadvertent mistake, the amount could not be deposited.

Keeping in view the submission made by learned counsel for the applicant-petitioners, order dated 24.05.2019 is modified

to the extent that the applicant-petitioners are ready to pay the auction amount instead of outstanding amount.

However, the petitioners are at liberty to pay the amount as mentioned in order dated 24.05.2019.

Disposed of accordingly.”

On 01.11.2019, the following order was passed by this Court:-

*Counsel for the petitioners has submitted that the particulars of the auction-purchaser were not known to him which has now been disclosed by the respondent in their reply. Relying upon an order passed by this Court passed in the case titled as **Smt. Seema Rani Versus Bank of India**, CWP No.17611 of 2016 decided on 21.04.2017 (Annexure P-6), it is submitted that petitioners may be granted one opportunity to approach the auction-purchaser for settlement.*

Adjourned to 20.11.2019.

It is made clear that if no settlement is arrived at till the next date of hearing then no further adjournment shall be granted.”

Counsel for the petitioners has submitted that he could not verify the antecedents of the auction purchaser.

Be that as it may, learned counsel for the respondent has submitted that there is no equity in favour of the petitioners because the account of the petitioners was declared NPA way back in the year 2016 and the property was put to sale for the first time on 07.09.2016. However, there was no bidder and the property was again put to sale on 02.02.2018 but

because of non-availability of the bidder, it could not be sold at that time also. The same situation arose when third auction was held on 28.02.2018 and 4th and 5th auction on 29.05.2018 and 27.02.2019. Ultimately, out of three properties mortgaged with the respondent-Bank, one property was sold during the 6th auction on 25.04.2019 for a sum of ₹1,21,50,000-. Thereafter, the present petition has been filed by the petitioners with the prayer that they are ready and willing to pay the auction amount in respect of the said property.

Mr. Parvez Chugh, counsel for the petitioners has submitted that the petitioners are ready and willing to pay the auction price alongwith reasonable interest provided the property may not be sold to the auction purchaser.

Counsel appearing on behalf of the respondent-Bank has submitted that firstly, there is no law in favour of the petitioners to upset the sale which has already taken place and secondly, the act and conduct of the petitioners dis-entitles them for any kind of equity from this Court as the property has been sold in the 6th auction and at no point of time, the petitioners themselves came forward to participate in the bid. It is further submitted that it is just a ploy on the part of the petitioners to upset the entire proceedings which have already been carried out in favour of the auction purchaser and the respondents have to recover more than ₹12 crore by the sale of other two properties.

After hearing learned counsel for the parties and keeping in view the aforesaid facts and circumstances, we do not find any reason to interfere in this petition as no law much less equity lies in favour of the petitioners. Hence, writ petition is dismissed, though without any order to costs.

(RAKESH KUMAR JAIN)
JUDGE

November 27, 2019
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No