
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.20168 of 2019
Date of decision: July 24, 2019

M/s Khokher Electronics and another ...Petitioners

Versus

Oriental Bank of Commerce and another ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Anveesh Jhingan

Present: Mr. Kamal Chaudhary, Advocate,
for the petitioners.

Rakesh Kumar Jain, J.

The petitioners have challenged the order dated 25.06.2019 passed by respondent no.2, by which an application filed by respondent no.1 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "Act") has been allowed.

In short, the petitioners obtained Overdraft Limit Facility of ₹26 lacs under OBLS Scheme from respondent no.1 on 24.08.2013 against equitable mortgage of immovable property bearing Plot No.96-97A (House No.MCF-A-1101), measuring 150 sq. yards, which is in the name of the guarantor. The aforesaid Overdraft Limit Facility was enhanced to ₹31 lacs vide sanction letter dated 31.10.2015. The petitioners did not pay the installments of loan and their account was declared a Non Performing Asset (NPA) on 31.08.2017. It was followed by a notice under Section 13(2) of the Act, in which respondent no.1 raised a demand of ₹31,91,838.38/- on

31.08.2017 and symbolic possession of the property was taken on 30.11.2017. Thereafter, respondent no.1 also filed an Original Application before the Debt Recovery Tribunal, Chandigarh, which is stated to be pending. Respondent no.1 sent an application on 05.03.2018 to the petitioners for physical possession of the secured asset. It is alleged that the guarantor had approached respondent no.1 for settling the matter under One Time Settlement (OTS), which was allegedly settled for ₹30.50 lacs. It is further alleged that respondent no.1 filed CWP No.11232 of 2019 for seeking a direction for deciding the application filed by it under Section 14 of the Act before respondent no.2. The said writ petition was disposed of by this Court on 01.05.2019 with the direction to respondent no.2 to decide the application. Thereafter, the application has been decided by respondent no.2 on 25.06.2019, in which absence of the petitioners has been recorded.

Learned counsel for the petitioners has submitted that on the one hand, the bank had agreed for OTS at an amount of ₹30.50 lacs on 31.12.2018 and on the other hand, respondent no.1 is bent upon to take physical possession of the property in dispute.

We have heard learned counsel for the petitioners and perused the available record with his able assistance.

The property in dispute is owned by Sonia wife of petitioner no.2- Sanjeev Khokher, who also happens to be the guarantor. As per the memo of parties available on record, the present petition is not filed by Sonia.

Be that as it may, nothing has been brought on record to show that after agreeing upon the OTS for an amount of ₹30.50 lacs on 31.12.2018, the petitioners or the guarantor had made any effort towards discharging the debts

of the bank. The petitioners have only referred to the letter for seeking OTS, on which the bank had agreed on 31.12.2018 but, thereafter, the writ petition is totally silent as to whether any effort was made by the petitioner-borrowers or the guarantor to make payment of the dues of the bank. CWP No.11232 of 2019, which has been allowed by this Court, was also decided on 01.05.2019, much after the agreement of OTS.

Thus, in view of the aforesaid facts and circumstances, we do not find any merit in this petition for the purpose of interference and hence, the same is hereby dismissed, though without any order as to costs.

(Rakesh Kumar Jain)
Judge

July 24, 2019
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(Avneesh Jhingan)
Judge

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