

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-34305-2019

Date of Decision:02.12.2019

M/s Sarvpriya Tubes Pvt. Ltd.

..... Petitioner

Vs.

State Bank of India and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ASHOK KUMAR VERMA**

Present: - Mr.Avnish Mittal, Advocate, for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the auction notices dated 1.11.2019 (Annexure P-7) and 02.11.2019 (Annexure P-6).

Shorn of unnecessary details, counsel for the petitioner has submitted that One Time Settlement [OTS] scheme was offered by the petitioner and accepted by the respondents on 30.9.2019 which is allegedly dated 4.10.2019. As per the petitioner, clear 30 days were not given and before that the auction notices have been issued.

Notice of motion.

At this stage, Mr. Rakesh Gupta, Advocate has put in appearance and accepted notice on behalf of the respondents. He has submitted that the petitioner cannot challenge the auction notices on the ground pressed before this Court because it has not adhered to the terms and conditions of the OTS which was otherwise accepted by it. In this regard, he has referred to the acceptance of the petitioner which is also on record as Annexure P-5, which read as under: -

*“We accept above mentioned terms and
conditions of OTS.”*

Moreover, counsel for the respondents has also referred to clause VIII of the said letter dated 30.9.2019, which read as under: -

“Properties in the account will be released after the liquidation of account of SAMANA ALLOYS for which Sarvpriya Tubes has given Corporate Guarantee.”

It is submitted that the petitioner has given the corporate guarantee for SAMANA ALLOYS and until and unless the debts of the SAMANA ALLOYS are not discharged by way of corporate guarantee given by the petitioner, which is a private limited company, the properties of the petitioner, mortgaged with the respondent-bank, cannot be released. As a matter of fact, out of the two properties mortgaged by the petitioner, one of the properties has already been sold in the auction held on 26.11.2019 and the other property is also to be sold for the purpose of recovery of the amount due.

After hearing counsel for the parties and taking into consideration facts and circumstances of the case, we do not find any merit in the present petition especially when the scheme of OTS was accepted and was not adhered to the petitioner by depositing even the upfront fee of 5%.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

02.12.2019
Vivek

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