IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-35863-2019
Date of Decision:16.12.2019

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Pardeep Seth and another

. . . . . Petitioners

Vs.

Punjab National Bank

. . . . . Respondent

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

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Present: - Mr.Prateek Sodhi, Advocate,
for the petitioners.

Mr.C.S. Pasricha, Advocate, with
Ms.Pradeep Kaur, Chief Manager,
for the respondent/Bank

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RAKESH KUMAR JAIN, J.

The petitioners have prayed for the issuance of a writ in the nature of certiorari for quashing the notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short 'the Act'] dated 3.07.2019, notice under Section 13(4) of the Act dated 18.9.2019 and e-action notice dated 18.11.2019.

In brief, petitioner No.3 had availed cash credit limit of ₹17 crores from the respondent-bank and petitioners No.1 & 2 gave their guarantees along with others. The said cash credit limit was enhanced to ₹19 crores in the year 2015 but was reduced to ₹16 crores in the year 2018. Petitioner No.3 could not maintain the financial discipline and the loan account was declared NPA on 16.06.2019. Pursuant thereto, the bank issued notice under Section 13(2) of the Act on 03.07.2019 for recalling the amount of ₹17,29,34,464/- determined as on 16.06.2019. The aforesaid notice was followed by a notice dated 18.9.2019 issued under Section 13(4) of the Act for the purpose of taking possession of the secured asset to recover the amount of ₹17,29,34,464/-. The symbolic possession was allegedly taken on 05.10.2019 and the secured asset was sought to be sold by way of e-auction.

Counsel for the petitioners has submitted that the petitioners are ready and willing to deposit the overdue amount of ₹17,29,34,464/- as determined on 16.6.2019.

At the time of preliminary hearing, this Court recorded the following order on 11.12.2019: -

> *"Notice of motion.*
>
> *At this stage, Mr. C.S. Pasricha, Advocate has accepted notice on behalf of the respondent-Bank and submitted that as per Inspection Report dated 06.09.2019, the stock of gold ornaments were found to be very meager.*
>
> *Counsel for the petitioners has submitted that there are requisite/sufficient stocks available with the petitioners which may be inspected by the respondent-Bank on coming Sunday i.e. 15.12.2019.*
>
> *In view of the above, the official of the respondent-Bank shall visit the shop of the petitioners on 15.12.2019 at 11.00 A.M. alongwith a Valuer who will assess the actual value of the stocks. It is further*

> *directed that the entire proceedings of inspection shall be videographed.*
>
> *The petitioners are directed to co-operate with the respondent-Bank for the preparation of the inventory.*
>
> *List for further hearing on 16.12.2019.*

The petitioners have filed an application in Court dated 16.12.2019 in which it is alleged that the stock is not available as the entire stock has been sent for display in the 10th Gujarat Gold Jewellery Show 2020. It is also averred in the application that the petitioners would make the stock available after the said show is over. It was also averred in the application that the total over due amount is about 2.10 crore.

On the other hand, counsel for the respondent/bank has submitted that earlier also the stock was checked but it was far less than required and now on 15.12.2019, after the order was passed by this Court on 11.12.2019, the stock is not available because as per the petitioners the entire stock of jewellery has been sent to Gujarat for display in some Gold Jewellery Show 2020. It is submitted that it is a lame excuse and the petitioners are not interested in making the payment of the overdue amount.

We have heard counsel for the parties and after perusal of record, are of the considered opinion that there is no merit in this petition because for the purpose of cash credit limit, the petitioners were supposed to maintain the stock but as per the earlier stock inspection report dated 6.9.2019, it was found to be very meager and when another opportunity was granted to the petitioners to satisfy the respondent/bank in regard to the availability of the stock, a lame excuse has been made by them that the entire stock of the gold jewellery has been sent to Gujarat in the Gold

Jewellery Show 2020. Since we are not accepting this explanation of the petitioners and do not find any another point involved in this petition, the same is found to be without any merit and is hereby dismissed without any order as to costs.

(RAKESH KUMAR JAIN)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

16.12.2019
Vivek

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