

\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 2816/2017

ASHOK GOEL & ANR

..... Petitioners

Through None.

versus

M/S TINNA FINEX LIMITED

..... Respondent

Through Mr.Kshitij Bhardwaj, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

%

23.08.2019

None appeared on behalf of the petitioners.

Vide the present petition, the petitioners seek quashing of a complaint case no.3219/2017 titled as Tinna Finex Ltd. vs. Ashok Goel and Anr. pending trial before MM-02/N.I. Act/SD/Saket, New Delhi.

Further seek direction thereby setting aside order dated 18.05.2017 passed by learned MM in complaint case mentioned above. Also seek direction thereby setting aside order dated 07.06.2017 passed by learned Sessions Court, Saket Court in Criminal Revision bearing No.189/2017.

The present petition has been filed on the ground that the petitioners have got issued demand draft of ₹1,90,00,000/- in favour of the respondent in the month of May, 2017. The petitioners are still ready and willing to pay ₹2,00,00,000/- to the respondent against discharge of mortgaged properties lying mortgaged with respondent.

As stated in the present petition, matter has been mutually settled

between the parties and respondent has agreed to accept ₹2,00,00,000/- against all claims and borrowings. This fact has been disputed by counsel for the respondent and specifically stated that no such settlement has been arrived at and respondent is not ready to accept the said amount. Moreover, this is disputed by the petitioners which is evident from the order dated 18.05.2017 passed before the learned MM.

It is not in dispute that vide order dated 04.10.2016, the petitioners were declared absconders. Consequently, Ahlmad of the court was directed to send the copy of the order dated 04.10.2016 to the concerned SHO for information as well as necessary action.

Being aggrieved by order dated 18.05.2017, the petitioners preferred revision petition vide CR No.189/2017 in CC No.3219/2017 and the same was dismissed vide order dated 07.06.2017 by recording that the petitioners were declared absconders in complaint case pending before learned Trial Court and the file was sent to record room which was recalled after the accused persons had moved an application before the Trial Court seeking reference of dispute to mediation centre. The complainant/respondent filed his objections alongwith copy of reply and (bail bond given by the petitioners in pursuance to) in case FIR No.420/2015 registered at police station Defence Colony in which address of accused/petitioners was mentioned. Therefore, the Trial Court directed for issuance of fresh NBW against the petitioners to be executed through IO of FIR mentioned above upon addresses mentioned in bail bond.

Learned Revisional Court recorded in its order dated 07.06.2017 that since the addresses of petitioners were made available before the court, the NBWs were directed to be issued by Trial Court for the complaint case

pending before it and not for other case i.e. FIR No.420/2015 mentioned above.

The learned Trial Court observed that the order seems to have been misinterpreted by learned counsel for the petitioners whereby they submitted that NBWs were ordered to be issued in case of FIR No.420/2015 mentioned above. The court opined that the order as can be seen was never to issue NBWs in another case which was not subjudice before the learned Trial Court but for the case pending before learned Trial Court for which the learned Trial Court had authority in law.

Keeping in view the facts and circumstances of the case and the observations made by the aforementioned courts, I find no merit in the present petition and the same is, accordingly, dismissed.

SURESH KUMAR KAIT, J

AUGUST 23, 2019
ab