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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7601 of 2020
Date of Decision: 01.06.2020

M/S GURU NANAK AUTOMOBILIES, MEHTA ROAD, VALLAH, AMRITSAR THROUGH ITS PROPRIETOR PARDEEP SINGH SON OF MOHAN SINGH RESIDENT OF HOUSE NO. 60, TUNG BALA, MAJITHA ROAD, AMRITSAR AND OTHERS

...Petitioners

VS.

PUNJAB NATIONAL BANK, BRANCH OFFICE, HALL BAZAR AMRITSAR THOUGH ITS CHIEF MANAGER

….Respondent

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

Present: - Mr. B.D. Sharma, Advocate,
for the petitioners.

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RAKESH KUMAR JAIN, J. (Oral)

Case taken up through Video Conferencing.

The petitioners are aggrieved against the letter/communication dated 23.03.2020 (Annexure P-4) vide which the One Time Settlement (OTS) dated 16.03.2019, entered between the parties, has been cancelled.

Shorn off unnecessary details, the petitioners were in arrears of the dues of the secured creditor/respondent-Bank. The loan account of the petitioners was declared as Non Performing Asset on 18.04.2018 followed by a recall notice dated 22.04.2018. On the representation of the petitioners, OTS was arrived at between the parties and a compromised offer of ₹241.00 Lakhs against the book outstanding amount of ₹257.28 Lakhs was approved subject to certain terms and conditions in which it was provided that *"OTS amount of ₹241.00 lakhs will be paid as under:*

> *Upfront amount of ₹24.10 lakhs has already been deposited. Remaining amount of ₹216.90 lakhs will be deposited in 3 months from the date approval of OTS."*

> *"Default in payment of OTS within the stipulated period shall render the OTS as failed and all reliefs and concessions shall lapse automatically and the Bank will be entitled to recover the entire dues as per documents."*

The petitioners did not deposit the remaining amount of ₹216.90 Lakhs within three months from the date of approval of the OTS rather they did not deposit any amount even after the expiry of 12 months. Consequently, secured creditor/respondent-Bank took the impugned decision on 23.03.2020 after making numerous efforts by intimating the petitioners by way of letters, telephone calls and personal messages, asking them to respond to the OTS proposal and deposit the remaining amount. In this regard, reference could be had to the fact that the secured creditor had written letters to the petitioners on 16.03.2019, 10.06.2019, 04.08.2019, 18.10.2019, 07.12.2019, 09.12.2019, 07.01.2020 and 06.02.2020 besides making various telephone calls but all had gone in vain due to irresponsive attitude of the petitioners. Counsel for the petitioners has now urged that some more time may be given to the petitioners so as to make the payment of OTS amount and has referred to the Agreement to Sell (Annexure P-3) and contended that the petitioners are in the process of selling their property for ₹52.00 Lakhs but because of the COVID-19 pandemic, the sale could not take effect.

In this regard, counsel for respondent-Bank, who is also present because of the advanced copy given to him, has submitted that as per the Agreement to Sell (Annexure P-3), the sale deed was to be executed on 20.03.2020 whereas the Lockdown was announced on 24.03.2020 and even otherwise, the sale of aforesaid property for a sum of ₹52.00 Lakhs is not sufficient enough as the recovery is of ₹216.90 Lakhs for which the petitioners have not given any payment plan.

We have heard counsel for the parties and after perusal of the record, are of the considered opinion that the OTS was approved on 16.03.2019 subject to certain conditions in which one of the condition was that the remaining amount of ₹216.90 Lakhs was to be deposited by the petitioners within three months i.e. upto 15.06.2019 and in case of default of the OTS proposal, the OTS was to be rendered useless and redundant, giving liberty to the Secured Creditor to recover the entire debts as per documents. Besides this, the lame excuse raised by the counsel for the petitioners that the property could not be sold because of the COVID-19 pandemic as the date for execution of the sale deed was 20.03.2020 whereas the Lockdown was imposed w.e.f. 24.03.2020. The petitioners have also not come forward with any other payment plan to make the payment remaining amount of ₹216.90 Lakhs.

Thus, in view of the aforesaid facts and circumstances, there is hardly any merit in this petition for the purpose of interference by this Court and hence, the same is hereby dismissed though without any order as to costs.

[RAKESH KUMAR JAIN]
JUDGE

June 1, 2020
Ess Kay

[ASHOK KUMAR VERMA]
JUDGE

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No