

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

CWP No. 13998 of 2020 (O&M)

Date of decision: 23.11.2020

Shreel Goyal and another

.....Petitioners

v.

Punjab and Sind Bank and another

.....Respondents

**Coram: Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Sant Parkash**

Present:- Mr. Jagat Vir Dhindsa, Advocate, for the petitioners.
Mr. A. B. S. Sidhu, Advocate, for respondent no. 1- Bank.
Mr. Daman Dhir, Advocate, for the auction purchaser.

Jaswant Singh, J.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court]

The petitioner- borrower has filed the present petition seeking quashing of the sale notice issued on 06.08.2020 (Annexure P-2), vide which the sale of secured asset was fixed by the respondent bank on 21.08.2020 under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act').

At the time of issuance of notice of motion, this Court vide order dated 09.09.2020 had granted status quo and restrained the

bank from confirming the sale and the matter was adjourned for today i.e. 23.11.2020. The order dated 09.09.2020 reads as under :-

“ Present:- Mr.Jagat Vir Dhindsa, Advocate for the petitioners.

[The aforesaid presence is being recorded through video-conferencing since the proceedings are being conducted in virtual court]

Learned counsel for the petitioner has raised two fold submissions; (i) that no fresh valuation has been got conducted before conducting fresh auction on 21.08.2020 thereby, violating the mandatory provisions of Rule 8(5) of the SARFAESI Act, 2002; (ii) the statutory period of 15 days' clear notice before conducting auction has also not been followed thereby, violating the mandatory provisions of Rule 9(1) of the SARFAESI Act, 2002.

Notice of motion for 23.11.2020.

In the meanwhile, status quo existing as on today, shall be maintained. However, in case, auction has been successfully conducted, the confirmation of the sale shall remain stayed.

[JASWANT SINGH]
JUDGE

09.09.2020

[SANT PARKASH]
JUDGE

However, application bearing **CM No. 9862-CWP of 2020** has been filed by the **applicant / Auction Purchaser – Vinod Kumar Singla s/o Pawan Kumar, Prop. of M/s. Jai Ganesh Rice Mills**, seeking vacation of interim order dated 09.09.2020, stating therein that pursuant to the impugned sale notice dated 06.08.2020 **(P-2)**, the auction conducted on 21.08.2020 was confirmed in his favour for a total consideration of Rs. 1,07,60,000/-. The total sale consideration has been received by the Bank and sale certificate dated 27.08.2020 was issued by the Bank in favour of the applicant –

Auction Purchaser and the sale deed has been duly registered with the Office of Sub Registrar, Sunam on 31.08.2020. The physical possession has also been delivered to the Auction Purchaser. The said application came up for preliminary hearing on 30.09.2020 in which notice was issued to the learned counsel for the petitioners/ non-applicants for today i.e. 23.11.2020.

Today, learned counsel for the petitioners has not been able to dispute the aforesaid factual position with regard to the auction having been confirmed and the sale deed registered on 31.08.2020 with possession much before the interim order dated 09.09.2020 regarding stay of confirmation of sale.

Having heard both sides, we feel that since the sale has been confirmed and the sale certificate has already been issued, the petitioners, in view of judgment of Hon'ble the Supreme Court in United Bank of India vs Satyawati Tondon and others, 2010 AIR (SC) 3413, have an equal and efficacious remedy of challenging the sale and the sale certificate in terms of Section 17 of the Act before the Debts Recovery Tribunal. Further, the question being raised at the time of hearing with regard to the legality/ irregularity, if any, in the process of sale including issuance of sale certificate and other incidental pleas, we feel that such pleas can also be raised before the Debts Recovery Tribunal.

In view of the above, the present petition is disposed of with liberty to the petitioners to avail alternate remedy, in accordance with law.

Since the main case has been disposed of, no orders are required to be passed in the pending miscellaneous applications, and the same stand disposed of.

(Jaswant Singh)
Judge

23.11.2020.
joshi / dk kamra

(Sant Parkash)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No