110 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 19311 of 2020
Date of Decision: 24.11.2020

M/s Hygiene Poultries and others ....Petitioners

Versus

Punjab National Bank and others ....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Vikas Lochab, Advocate
for the petitioners.

Mr. Anandeshwar Gautam, Advocate
for respondents No. 1 and 2.

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SANT PARKASH, J. (ORAL)

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

The instant petition has been preferred under Article 226/227 of Constitution of India for issuance of a writ in the nature of certiorari for quashing/setting aside the auction dated 16.01.2020 and the consequent proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'). Further prayer has also been made for issuance of a writ in the nature of mandamus directing the respondent bank to consider representations dated 02.09.2020 and 26.10.2020 (Annexures P-8 and P-9 respectively) wherein the petitioners have specifically stated that they are ready to pay full and final amount in single installment.

Petitioner No. 1 is the proprietor of M/s Hygiene Poultries and is the authorized person of the firm for all purposes including bank transactions. Petitioner No. 1 availed cash credit limit from respondent No. 1-Punjab National Bank in normal course of business whereas petitioners No. 2 and 3 stood Personal Guarantee against the cash credit limit availed by petitioner No. 1. Petitioner No. 1 provided an existing poultry unit situated on land No. 124, Khatoni No. 166, Rectangle No. 68, Killa No. 2/1(4-00) and Khewat No. 125, Khatoni No. 167, Killa No. 68, Killa No. 25/2(3-4) at Burshan Road, Village Mehrana, Tehsil & District Panipat, as security to respondent No. 1 against cash credit limit of Rs.80 Lakh.

Due to sudden change in government financial policies during Financial Year 2016-17 including demonetization and introduction of GST in India, bad debts on farmers and recurring disease in poultry, petitioner No. 1 incurred severe loss. Consequently on September 16, 2019, respondent No. 2-Chief Manager, Punjab National Bank, Tehsil Camp, Panipat declared cash credit limit of petitioner No. 1 as Non Performing Asset (NPA) thereby raising the demand of Rs.82,67,214.86 being the outstanding amount against cash credit limit of Rs.80 Lakh. Petitioner No. 1 proposed the respondent that he is ready to sell his properties to discharge his liability, as such, he should be given more time. Initially, respondents No. 1 and 2 gave positive response but later on, they refused to cooperate. The respondent bank thereafter issued notice under Section 13(4) of the SARFAESI Act thereby taking over the symbolic possession of the properties. Ultimately, on January 31, 2020, respondent No. 2 informed petitioner No. 1 that collateral/secured asset has been sold through e-auction dated January 16, 2020 at the price of Rs.96 Lakh to the highest bidder.

Learned counsel for the petitioners, after arguing the case for some time, prays for withdrawl of the instant petition with liberty to approach Debts Recovery Tribunal by taking all the pleas, raised in this petition.

Dismissed as withdrawn with liberty as prayed for.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

24.11.2020
Avin/Maninder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No