

**111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-18997-2020

Date of decision: 10.11.2020

M/s Lucky Wednesday Consultants Pvt. Ltd.

....Petitioner

Versus

Debt Recovery Tribunal-III, Chandigarh and ors

....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Amit Chaudhary, Advocate
for the petitioner.

AJAY TEWARI, J.(ORAL)

By this petition, petitioner has challenged the order dated 26.10.2020 (Annexure P-15) whereby its plea to *set aside* the auction has been rejected by the Debts Recovery Tribunals (DRT), Chandigarh.

The brief facts are that the petitioner had taken credit facility to the tune of Rs.5.00 crores from respondents No.2 and 3-Bank. It could not adhere to the financial discipline and ultimately on 12th February, 2019, notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') was issued to it by respondents No.2 and 3. The petitioner filed CWP No.28417 of 2019 which was disposed of on 23.10.2019 with the following order:-

“Counsel for the petitioner has agreed to pay ₹4,21,56,705/- i.e. a principal amount of ₹3,73,64,585/- plus the interest on the pending installment i.e. ₹47,92,120/- within a period of 90 days from today. However, it is submitted that the said amount shall be paid by the petitioner by selling his other properties which will take some time.

In view of the aforesaid facts and circumstances of the case, the present petition is hereby disposed of with the direction that in case the petitioner pays the amount of ₹4,21,56,705/- within a period of 90 days then the matter shall be deemed to be settled finally between the parties and in case he fails to make the payment as directed above, the respondent-institution shall be entitled to recover the amount of the other components also i.e. pending installments interest, interest till date of pre-payment, late payment penalty charges, cheque bouncing charges, other charges and pre-payment charges @ 4.72% on outstanding principal by putting on sale the mortgaged property.”

Thereafter, the petitioner could not deposit that amount and on 14th January, 2020, filed CM-821-CWP-2020 for recalling the order and prayed for extension of time.

It is not disputed that that application is still pending and it has not been taken up. Ultimately on 5th August, 2020, the respondents took over the possession of the secured assets. The petitioner filed a second writ petition i.e. CWP-12190-2020.

We put it to the learned counsel, how this writ petition would be maintainable in view of the pendency of CM-821-CWP-2020 (mentioned above), he has no answer to the same.

Be that as it may, that petition bearing CWP No.12190-2020 was apparently dismissed with liberty to the petitioner to approach the Tribunal. The petitioner approached the Tribunal and vide impugned order dated 26.10.2020 (Annexure P-15), the Tribunal has rejected the claim of the petitioner by noticing the operative portion of the judgment of the High Court's order dated 23.10.2019.

In our considered opinion, this multifarious litigation is nothing but an abuse of the process of the Court.

Petition is dismissed.

Since the main case has been decided, the pending Civil Miscellaneous Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

10.11.2020
m. sharma

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No