

223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1452-2021

Date of decision : 16.02.2021

M/s Hoshiarpur Roller Flour Mills Pvt. Ltd. and another

.... Petitioners

Versus

Punjab National Bank

... Respondent

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

Present: Mr. Aalok Jagga, Advocate
 for the petitioners.

 Mr. D.S. Bainola, Advocate
 for the respondent.

AJAY TEWARI, J. (Oral)

1. This petition has been filed against the action of the bank for giving short notice of the intended sale of the mortgaged properties vide sale notice dated 27.11.2020.

2. As per the learned counsel for the petitioners, the sale of the property was fixed for 15th December, 2020 but the notice to the petitioners was put in the registered post only on 12th December, 2020 and thus, the bank flagrantly violated the provisions of Rule 9 (1) of the Security Interest (Enforcement) Rules, 2002 as interpreted by the Hon'ble Supreme Court in Mathew Varghese Vs. M. Amritha Kumar, 2014(5) SCC 610.

3. On the other hand, the primary contention of the learned counsel for the respondent is that earlier also the auction was conducted (though not confirmed) and the petitioners have the remedy before the Debt Recovery

Tribunal. As regards the fact that the registered notice was put in the post only on 12th December, 2020, in the written statement this fact is not denied and sought to be explained by way of claiming it to be a technical error. As regards the plea of alternative remedy, he has relied upon the decision of Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C. 2018(3) SCC 85. There is no doubt that the petitioners have an effective and efficacious remedy but there is also no doubt that the registered notice to the petitioners was put in the post only on 12th December, 2020 while the auction was fixed for 15th December, 2020.

4. In the circumstances, even while relegating the petitioners to their remedy before the Debt Recovery Tribunal, we direct the petitioners to file an application (complete and free from defects) before the Tribunal within seven days along with an application for stay and there shall be stay of further proceedings in the auction till such time as the said application is decided by the Tribunal as per law. However, in case the petitioners do not file the application before the Tribunal within seven days, the interim order shall stand vacated.

5. Petition stands disposed of accordingly.

6. Since the main case has been decided, the pending Civil Misc. Application(s), if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

16.02.2021

m. sharma

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