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

CWP-19794-2021

Date of Decision:30.09.2021

M/s New Dhir Traders and others

...Petitioners

Versus

Debt Recovery Tribunal-III, Chandigarh and another

...Respondents

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

Present: Mr. Saurabh Kaushik, Advocate,
for the petitioners.

Mr. Mahesh Dheer, Advocate
for the caveator-respondent/Bank.

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

SANT PARKASH, J.

The present writ petition is directed against the order dated 03.08.2021 (P-8) passed by the learned Debts Recovery Tribunal, Chandigarh, whereby the application filed by the petitioner to settle the dispute as per the guidelines/policies for One Time Settlement of respondent-Bank has been dismissed.

Briefly stated, Som Parkash is a proprietor of M/s New Dhir Traders (petitioner No.1). The said firm had availed a Cash Credit limit of Rs.24,00,000/- from the respondent-Bank against primary security by hypothecating book debts, personal guarantee of petitioner No.3 and collateral security by way of equitable mortgage of residential house measuring 235½ square yards situated at Patiala Gate, Nabha, District Patiala. Due to financial indiscipline, the petitioners could not pay some

installments of the loan amount, following which the respondent-Bank initiated proceedings under the SARFAESI Act, 2002. Annexure P-1 dated 01.11.2016 and Annexure P-3 dated 16.01.2017 issued under Sections 13(2) and 13(4) of the SARFAESI Act, 2002 respectively are fallout of the same.

It is averred in the petition that an application (in OA No.425 of 2019 filed by the respondent-Bank) was moved by the petitioners for allowing them to deposit the remaining amount as per One time Settlement (OTS) Scheme, however, the same was wrongly dismissed by the learned DRT without considering their request.

Hence, the present writ petition.

Learned counsel for the petitioners submits that the petitioners are still ready and willing to pay the remaining amount to the respondent-Bank. He further submits that learned DRT has wrongly declined the request of the petitioners without appreciating the facts of the case. He, thus, prays for acceptance of the writ petition.

On the other hand, learned counsel for the respondent-Bank submits that during the pendency of above-said OA, the respondent-Bank offered RIN SAMADHAN 2019-20 Scheme and the petitioners accepted the One Time Settlement Scheme under the said Scheme. However, the petitioners failed to pay the settled amount as per the terms of OTS and consequently, the settlement was cancelled.

After having heard the learned counsel for the parties and perusing the case file, this Court is of the considered view that there is no error or patent illegality in the impugned order passed by the learned DRT. The learned DRT, while rejecting the request of the petitioners, observed that three times OTS was extended to the petitioners but they could not pay

the outstanding amount as per the said OTS. As per the stand of the respondent-Bank, if the petitioners do not comply with the terms and conditions of the Scheme, OTS will stand automatically cancelled and the petitioners will be liable to pay the entire outstanding dues of the respondent-Bank. Learned counsel for the petitioners is unable to deny above-said factual position. Thus, this Court is of the view that the present writ petition deserves to be dismissed, being devoid of any merit.

In view of the above, the instant writ petition is dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

30.09.2021

mks

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO