104

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CM-8340-CWP-2022 in/and
CWP-5735-2020
Date of Decision: 05.07.2022

Chatura Nand

..... Petitioner

Versus

The Punjab State Federation of Cooperative House Building Societies Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vinod Kumar, Advocate,
for the applicant/petitioner.

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HARSIMRAN SINGH SETHI J. (ORAL)

CM-8340-CWP-2022:

The present application has been filed for recalling the order dated 16.05.2022, passed by this Court, vide which order, the main petition, being CWP-5735-2020, was dismissed for non-prosecution.

Keeping in view the averments made in the present application, which are duly supported by the affidavit filed by learned counsel for the petitioner, this application is allowed. Order dated 16.05.2022 is recalled and CWP-5735-2020 is restored to its original number.

The main petition is taken up for consideration today itself.

CWP-5735-2020:

In the present petition, challenge is to the auction notice dated 31.12.2019 (Annexure P-3), vide which the House measuring 13 Marla 9 Square Feet, comprised in Khasra No.1249, bearing No.52, Aman Nagar, Near Suranussi, Jalandhar, was ordered to be auctioned by the Jalandhar Central Cooperative Bank in compliance of the order passed by the competent authorities under the Punjab Cooperative Societies Act, 1961.

Learned counsel for the petitioner argues that though the petitioner had taken a loan from the Jalandhar Central Cooperative Bank and concedes that the loan amount was not returned by him as per the Bank's terms and conditions, but the auction of the petitioner's property so as to realise the unpaid loan amount by the Bank concerned vide auction notice dated 31.12.2019 (Annexure P-3), for which appropriate orders have already been passed by the competent authority, may kindly be set aside, being illegal and arbitrary.

Learned counsel for the petitioner further argues that the amount, which is being asked from the petitioner by the Jalandhar Central Cooperative Bank, is not liable to be returned by the petitioner as the same is excess of the actual amount due to be paid and is not assessed in accordance with law.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

In the present case, the petitioner had taken a loan for a sum of Rs.4,00,000/- in the year 2000 from the Jalandhar Central Cooperative Bank. It is conceded by learned counsel for the petitioner that the said loan amount has not been repaid to the satisfaction of the Jalandhar Central Cooperative Bank. The said Bank initiated proceedings for securing the said unpaid loan amount from the petitioner and the Assistant Registrar, Cooperative Societies, Jalandhar, passed an order holding that a sum of Rs.5,32,783/- is to be paid by the petitioner to the Bank concerned and asked the petitioner to pay the same. Aggrieved against the said order, the petitioner filed an appeal before the Deputy Registrar, Cooperative Societies, Jalandhar, which appeal was also dismissed. The said proceedings came to an end in the year 2008.

Despite suffering an order of repayment of the pending loan amount, the petitioner chose not to pay the said loan amount to the Jalandhar Central Cooperative Bank, hence the petitioner was served auction notice on 23.12.2008 for the auction of his property, so as to realize the unpaid loan amount from him. The said auction notice could not be taken to its logical end, and thereafter, another auction notice was served upon the petitioner in January, 2009, but the said auction notice also could not be taken to its logical end and the matter remained pending. Thereafter, the impugned auction notice dated 31.12.2019 (Annexure P-13) was served upon the petitioner by the respondents by exercising power under Rule 72 of the Punjab Cooperative Societies Act, 1961.

Once, it is a conceded position that the petitioner is under an obligation to pay the unpaid loan amount to the Jalandhar Central Cooperative Bank, which proceedings have already attained finality as far as back in the year 2008, no illegality can be found in the auction notice dated 31.12.2019 (Annexure P-3) served upon the petitioner by the authorities concerned, so as to realize the unpaid loan amount from the petitioner. The conduct of the petitioner is such that even during the proceedings, he was asked whether he is ready to pay the loan amount to the Bank, to which the petitioner refused. If that is the conduct of the petitioner that after obtaining the loan from the Bank, he is refusing to repay the same then his conduct itself disentitle him for the grant of relief, as being prayed in the present petition.

Further, no illegality has been pointed out in the auction notice dated 31.12.2019 (Annexure P-13) served by the authorities concerned to secure the amount, which concededly has to be paid by the petitioner to the Jalandhar Central Cooperative Bank.

No ground is made out to interfere with the auction notice dated 31.12.2019 (Annexure P-13).

Dismissed.

05.07.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No