

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

CWP No.6970 of 2022 (O&M)

Reserved on 04.04.2022.

Date of Decision: 19.04.2022

VIKAS JINDAL

.....Petitioner

V/s.

**ADDITIONAL CHIEF SECRETARY-CUM-FINANCIAL
COMMISSIONER, COOPERATION, PUNJAB, CIVIL SECRETARIAT,
SECTOR-1, CHANDIGARH AND OTHERS.**

.....Respondents

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE HARMINDER SINGH MADAN**

Present: Mr. Lupil Gupta, Advocate,
for the petitioner.

Mr. Pankaj Gupta, Additional Advocate General, Punjab.

M.S. RAMACHANDRA RAO, J.

The petitioner in the Writ Petition seeks a Writ in the nature of *Certiorari* for quashing the impugned order dt. 14.02.2019 (Annexure P-6) passed by respondent No.2, Order dt. 01.08.2013 (Annexure P-4) passed by respondent No.2, Award dt. 19.08.2005 (Annexure P-3) passed by respondent No.3, as well as Possession Notice (Annexure P-7) issued by respondent No.4 whereby the petitioner has been directed to pay sum of ₹ 69,16,747/- as on 31.03.2021 along with interest, other charges and expenses.

The petitioner approached respondent No.4-Bank/Society and got sanctioned CC Limit of ₹ 7 Lakhs on 29.07.1999, by mortgaging his property. He claims that out of the total sanctioned amount of ₹ 7 Lakhs, he utilized only ₹ 4,25,054/- and repaid ₹ 90,000/- leaving a balance of only ₹ 3,33,054/-. He contends that on 30.08.2000, he has requested respondent

No.4-Bank to release the remaining amount of the Limit, but he was not allowed/ permitted to use the entire amount of Cash Credit sanctioned in his favour.

On account of non-payment of dues by the petitioner, proceedings under the Punjab Cooperative Societies Act, 1961 (for short 'the Act') were initiated against him and an award (Annexure P-3) was passed against him by respondent No. 3 on 19.8.2005.

The petitioner filed an Appeal against the said Award before respondent No.2, but the same was dismissed on 01.08.2013(Annexure P-4).

He then filed a Revision Petition against the said appellate order, but the same was also dismissed on 14.02.2019 (Annexure P-6) by respondent No.1.

In this Writ Petition, the petitioner challenges the award dt.19.08.2005, appellate order dt.01.08.2013 and the Revisional order dt. 14.02.2019.

It is the contention of the petitioner that he was never inducted as a member of the Respondent No.4 Bank/ Society, but proceedings were initiated under the Act; that there was no jurisdiction conferred on the respondent No.3 to pass an adverse award against him under the Act; and therefore, the award dt.19.08.2005, appellate order dt.01.08.2013 and the Revisional order dt. 14.02.2019 have to be set aside.

The contention of the petitioner that he is not a member of the Respondent No.4 - Bank/Society cannot be accepted since the appellate authority in his order dt.01.08.2013 held, on appreciation of evidence on

record, that the petitioner was made a nominal member at Sr. No. 4623 on 28.06.1999 at Page No.72 of the Nominal Register, and the petitioner had also executed the loan documents in favour of respondent No.4-Bank. The Revision Petition of the petitioner was dismissed by respondent No.1 also on the said ground.

Nothing is placed on record by the petitioner to disagree with the said finding of the Appellate Authority as well as the Revisional Authority under the Act.

Proceedings under the SARFAESI Act, 2002 were also initiated by respondent No.4-Bank against the petitioner, and a possession notice (Annexure P-7) under Section 13(4) of the Act was issued by the said respondent demanding ₹ 2,03,87,071/- from petitioner.

Petitioner also challenges the same on the ground that there was an OTS Policy floated by the respondent No.4- Bank and he is entitled to benefit thereof.

An OTS Policy was no doubt floated by respondent No.4-Bank called “OTS Policy-2020” which was valid for the period from 01.07.2020 to 31.12.2020.

But the petitioner approached respondent No.4 on 04.05.2021 seeking OTS, long after the lapse of the same and Clause-1.0 of the said Policy specifically says that no application for OTS will be entertained after the expiry of the OTS Policy. So, even on the said ground he is not entitled to any relief.

Even in the request for OTS made by the petitioner on 04.05.2021, the petitioner was only insisting on paying ₹ 3,31,054/-, and not

the amount payable as per the Award passed against him under the Act. The dues of the petitioner as per the Award are ₹ 2,03,87,071/- as on 31.03.2021, and therefore, the offer of the petitioner of a small amount of ₹ 3,31,054/- towards OTS, cannot be said to be a *bona fide* offer, which ought to be considered by respondent No.4-Bank.

Accordingly, we find no merit in this Writ Petition, and the same is dismissed *in limine*.

(M.S. RAMACHANDRA RAO)
JUDGE

(HARMINDER SINGH MADAN)
JUDGE

April 19, 2022

Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>
<i>Whether Reportable</i>	:	<i>No</i>