IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(103+270) **CWP-1972-2022 (O&M)**
Decided on : 16.05.2023

M/s Hind Inns & Hotels Pvt. Ltd. & another

……Petitioner(s)

Versus

Union Bank of India (Formerly Corporation Bank) ……Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN

Present: Mr.Aalok Jagga, Advocate for the applicant-petitioner (s).
None for the respondent.

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G.S. Sandhawalia, J. (Oral)

The present writ petition primarily challenges the order dated 07.04.2021 (Annexure P-7) whereby the petitioner's account was declared as NPA on 31.03.2021 and also the auction notice dated 30.12.2021 (Annexure P-8).

2. A perusal of the said notice would go on to show that the outstanding was Rs.30,29,55,300.65 as on 01.09.2021. On 29.03.2023, while dismissing the application for restraining the respondent-bank from taking any coercive steps, it was noticed that the auction has failed. It was noticed that in view of proceedings initiated under Section 14 of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002, the interim application for stay had been rejected by the Presiding Officer of the DRT on 06.03.2022 (Annexure P-22). We had also noticed that on an earlier occasion, writ petition had been filed and an offer had been made to pay Rs.4 crores which was not complied with. Thus, we had relegated the petitioner to his remedy before the DRAT, keeping in view the settled principle of law on the principle of alternate remedy being available.

3. The challenge thus in principal is to the securitization proceedings and therefore, the argument that there is a restructuring as per the TEV report of the Bank is an issue which can be agitated before the Tribunal in case there is any statutory violations of the said guidelines in view of the law laid down in **M/s Sardar Associates & others Vs. Punjab & Sind Bank & others, 2009 (8) SCC 257**. Relevant portion of the said judgment read as under:

> "29. It may be that no specific prayer was made but the same, in our opinion, keeping in view the provisions of the 2002 Act, did not preclude the Appellate Tribunal to consider the offer of the appellants. The Appellate Tribunal in terms of the provisions of the Act like the original Tribunal is interested only in recovery of the amount. While doing so, it, in our considered opinion, has the requisite jurisdiction to consider the prayer made by a debtor for one time settlement particularly in view of the fact that the same is within the purview of One Time Settlement Scheme of the Reserve Bank of India. If a public sector bank is otherwise bound by any guidelines issued by the Reserve Bank of India, we see no reason as to why the same cannot be enforced in terms of the provisions of the Act by the Tribunal and consequently by the Appellate Tribunal. It is not a case where the appellants had prayed for quashing of a policy decision taken by the respondent - Bank. The question which arose for consideration before the Appellate Tribunal as also before the High Court was as to whether offer having been made by the bank to the appellants herein, it could have turned around and contend that only because the appellants had furnished security to the extent of Rs. 11 crores, the same by itself would entitle it to take recourse to a discriminatory treatment. The answer to the said question must be rendered in the negative."

4. Resultantly, we are of the view that the present writ petition has been rendered infructuous, regarding the challenge to the auction proceedings in view of the subsequent developments and the same is disposed of with the above-said observations since the petitioners are already before the DRT. All pending application(s) are also disposed of as having been rendered infructuous.

(G.S. SANDHAWALIA)
JUDGE

16.05.2023 **(HARPREET KAUR JEEWAN)**
Sailesh **JUDGE**

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No