

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

238

CWP-3515 of 2020 (O&M)

Date of Decision:02.11.2023

M/S LYTO MOTORS LTD AND ORS

....Petitioner(s)

Versus

REGISTRAR COOPERATIVE SOCIETIES PUNJAB AND ANR

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Vijiyesh Malhotra, Advocate, for
Mr. Rohit Suri, Advocate,
for the petitioners.

Mr. Sandeep Jain, Addl. A.G. Punjab.

Mr. Navraj S. Mahal, Advocate,
for respondent No.2.

Mr. K. S. Dadwal, Advocate,
for respondent No.3.

LISA GILL, J. (Oral)

1. Prayer in present writ petition is for setting aside sale notice dated 30.01.2020 whereby property in question has been put to auction.

2. It is submitted that term loan of ₹4.25 crores was availed of by petitioners from respondent No.2. Property as detailed in the writ petition was mortgaged with respondent No.2. Due to financial

indiscipline account of petitioners was classified as NPA on 15.02.2017. Proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') were initiated with notice under Section 13 (2) of the SARFAESI Act being issued on 15.02.2017 (Annexure P-5) demanding a sum of ₹5,08,93,434.16P as on 31.01.2017. Possession of the property was taken on 20.11.2018 (Annexure P-7). Sale notice dated 30.01.2020 was published in "Punjab Kesari". Notice of motion was issued in the present writ petition on 10.02.2020 while directing that subject to petitioners depositing a sum of ₹1.00 crore with respondent-bank within a period of four weeks i.e. ₹50 lacs within two weeks and remaining ₹50 lacs within further two weeks, operation of notice dated 30.01.2020 would remain stayed and in case the deposit is not made, there would be automatic vacation of stay without any further reference to the Court. It is not denied that petitioners have not deposited the said sum in terms of order dated 10.02.2020 and the following order was passed on 18.03.2020 in CM-4634-CWP-2020:-

"CM-4634-CWP-2020"

The order dated 10.02.2020, admittedly, has not been complied with by the petitioners.

In view of this, the interim order dated 10.02.2020 stands vacated. It shall be open for the respondents to put the petitioners' property to sale by public auction by fixing the date at the earliest. The respondents shall be entitled to recover the cost of fresh publication of the public notice/sale notice. We clarify that since the petitioners have not complied with the order dated 10.02.2020, which was subject

to deposit of a sum of Rs.1,00,00,000/- (Rupees One Crore) by the petitioners, they would be precluded from filing any fresh petition on the same or similar cause of action.

Application stands dismissed.”

3. Prayer for amendment of said writ petition was also declined.

4. It is contended that property in question has been auctioned in total violation of the applicable provision as sale of property valued at over ₹5.00 crores, has been carried out at about ₹2,51,00,000/- only.

5. Learned counsel for respondents have refuted and opposed the contention of learned counsel for the petitioners while submitting that there is total non-compliance of order dated 10.02.2020. Sale of property in question was carried out successfully with the sale certificate being issued in favour of respondent No.3. Moreover, petitioners had an efficacious alternate remedy for redressal of their grievance(s) under statute itself. The property in question has been auctioned on 16.03.2020. Sale certificate dated 31.03.2020 was issued in favour of respondent No.3 who is the highest bidder (sum of ₹2,51,00,000/-). Possession of the said property has also been handed over to respondent No.3.

6. Learned counsel for petitioners still insists that the matter should be entertained despite the amount not having been deposited in terms of order dated 10.02.2020. Apart from the fact that petitioners have efficacious remedy for redressal of their grievances, we do not find any merit in the argument as above in view of the conduct of petitioners. Argument is accordingly rejected.

7. Keeping in view the facts and circumstances as above, we do

not find any ground whatsoever to interfere in this matter in exercise of jurisdiction under Article 226 of the Constitution of India.

8. Writ petition is accordingly dismissed.

9. Pending application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

November 02, 2023

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Whether speaking : Yes/No

Whether reportable : Yes/No