

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

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2023:PHHC:046723-DB

CWP No. 7073 of 2022
Date of Decision: 29.03.2023

Vikas Jindal

.....Petitioner(s)

Versus

Additional Chief Secretary-cum-Financial Commissioner, Corporation,
Punjab and others

....Respondent(s)

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

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

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the order dated 14.02.2019 (Annexure P-6) passed by the Additional Chief Secretary-cum-Financial Commissioner whereby, while deciding two revision petitions, he upheld the award dated 19.08.2005 (Annexure P-3) and the appellate order dated 01.08.2013 (Annexure P-4) by noticing that the Appellate Authority had held that the interest should be charged at the contractual rate and by noticing that the petitioner had been enrolled as a nominal member of the bank and had failed to pay the loan and the bank was agitating for its dues by filing reference of dispute under Sections 55 and 56 of the Punjab Co-operative Societies Act, 1961. In pursuance of the same, the bank has invoked The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest, Act, 2002 (in short 'the 2002 Act') in order to recover the amount and possession notice (Annexure P-7) is also subject matter of challenge.

Vikas Jindal vs. The Mansa Central Co-operative Bank Ltd., Mansa and another wherein, vide order dated 27.01.2022 (Annexure P-11), he withdrew the said writ petition. The said order reads thus:-

“Learned counsel for the petitioner seeks to withdraw this Writ Petition.

Permission is granted.

Writ petitioner is dismissed as withdrawn.

No costs.”

During the course of arguments, it transpires that there were two loan accounts of Rs.7,00,000/- each and the petitioner has also withdrawn CWP No. 14740 of 2021 also on 27.01.2022.

It has also been brought to our notice that thereafter CWP No. 6970 of 2022, again challenging the same order of the Additional Chief Secretary-cum-Financial Commissioner dated 14.02.2019 whereby, he had decided two revision petitions on the same date, was also dismissed on merits on 19.04.2022 by the co-ordinate Bench. The prayer made was identical since the amounts advanced were also Rs.7,00,000/- in each case and the outstandings were similar and also the prayer for OTS had been rejected by the co-ordinate Bench that against the dues of the petitioner were Rs.2,03,87,071/- as per the award as on 31.03.2021. Therefore, the offer of Rs.3,31,054/- towards OTS could not be held to be a *bona fide* offer which was liable to be considered by the bank, which is also the prayer made herein. Though counsel has submitted that a review is pending for 14.07.2023, which also as per the record, would go on to show that it was only on account of the absence of the counsel on 24.02.2023 who did not put in appearance, the matter was adjourned.

We are of the considered opinion that no fresh cause of action as such has arisen in the intervening period for the petitioner to file a second writ petition. Counsel for the petitioner has tried to justify that liberty was given to file a fresh one, which we cannot read in the order reproduced above.

In such circumstances, we do not find any ground as such to entertain the present petition in view of the fact that the earlier petition filed by the petitioner himself was dismissed as withdrawn. Even otherwise, we are of the considered opinion that once the possession notice has been challenged, there is a remedy before the Tribunal under Section 17 of the 2002 Act and in such circumstances, we see no reason to entertain the present writ petition and the same stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

29.03.2023
shivani
Whether reasoned/speaking
Whether reportable

(HARPREET KAUR JEEWAN)
JUDGE
Yes/No
Yes/No