

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

CWP-7971-2023

Date of Decision: 21.04.2023

BABA BHAGWANT BHAJAN SINGH

...Petitioner

Vs.

PRESIDING OFFICER, DEBT RECOVERY TRIBUNAL-I AND ORS

...Respondents

**CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE SANJIV BERRY**

Present: Ms. Jyoti Sareen, Advocate for the petitioner.

Mr. Rakshit Gupta, Advocate for
Mr. Rakesh Gupta, Advocate
for respondent No.3-Canara Bank.

G.S. SANDHAWALIA, J. (Oral)

The present petition is directed against the order dated 09.02.2023 (Annexure P-32) passed by the Presiding Officer, Debt Recovery Tribunal-I, Chandigarh whereby primary Appeal No. 1 of 2023 filed by the petitioner has been dismissed on the ground that the pre-deposit application has been withdrawn on 11.01.2023 and thereafter in the absence of the same, the appeal was rejected. However, observation has also been made that there is no merit in the contention of the petitioner that there was a fraud in conducting of the auction.

2. Counsel has brought to our notice that the earlier application i.e. IA No. 34 of 2023 was dismissed as withdrawn on 11.01.2023 (Annexure P-30). She, however, points out from the said order that she had taken liberty to file a fresh application within two days and the main case was then to come up on 18.01.2023. After withdrawal of the said application, petitioner had filed application IA No. 51 of 2023 for waiver of the amount as a pre-condition and accordingly it is argued that this aspect missed the notice of the Tribunal. Even otherwise now two drafts; one for Rs.15,00,000/- and other for Rs.85,00,000/- in favour of the Registrar, Punjab and Haryana High Court have been produced to show that the petitioner is also willing to

deposit the amount as to fulfil the condition of pre-deposit and even orders on IA NO. 51 of 2023 would not be required if the petitioner deposits the amount with the Tribunal.

3. Notice of motion.
4. On advance notice, counsel for the Bank is present in Court.
5. Keeping in view the above facts and since there is a change in the thought process of the petitioner, we are of the considered opinion that parties shall approach the Tribunal by filing appropriate application and the Tribunal will decide the same afresh subject to the payment of the pre-deposit amount. The order dated 09.02.2023 is set aside subject to the pre-depositing the amount before the tribunal within one week. In case the needful is not done, the writ petition will be deemed to be dismissed. Original bank drafts have been returned to counsel for the petitioner. Since the petitioner alleges dispossession at the hands of the auction purchaser i.e respondent No.4 an interim stay of one week is granted from today. It is open for the petitioner to move to the Tribunal for necessary relief, who shall pass the appropriate orders, in accordance with law.

(G.S. SANDHAWALIA)
JUDGE

(SANJIV BERRY)
(JUDGE)

21.04.2023

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*