

2023:PHHC:058160-08

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CM-7013-CWP-2023 and
CM-7014-CWP-2023 in/and
CWP-13680-2022
DATE OF DECISION: 25.04.2023****ABDUL SITAR****.....PETITIONER****Vs.****UNION OF INDIA AND OTHERS****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Vivek Goyal, Advocate, for
Mr. Dinesh Kaushik, Advocate,
for the applicant-petitioner.

Mr. Arun Beniwal, D.A.G., Haryana.

Ms. Deepika Mittal, Advocate, for
Mr. Dinesh Kaushik, Advocate,
for the non-applicant-respondent/Bank.

***********G.S.SANDHAWALIA, J. (ORAL)****CM-7013-CWP-2023**

By this application, the applicant-petitioner seeks preponment
of the date of hearing fixed in the accompanying petition from 01.05.2023.

Keeping in view the averments made in the application, which
is duly supported by an affidavit of the applicant-petitioner, the application
is allowed and the hearing of the main petition is advanced to today itself.

CWP-13680-2022 (O&M)

1. The petitioner approached this Court for decision on his
representation that he has already availed a business loan of ₹18,50,000/-

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and therefore since he fulfilled certain criteria, he be given the benefit of the Credit Guarantee Scheme for Subordinate Debt (CGSSD).

2. On 18.07.2022, the following order was passed:-

“Notice of motion for 17.10.2022.

Subject to the petitioner paying a sum of ₹12 lakhs to the respondents-Bank on or before 22.08.2022, no coercive action shall be taken against the petitioner or the secured asset offered by the petitioner. In default of compliance with this order, the same shall stand vacated.”

3. Apparently, the said order was never complied with. Resultantly, CM-7014-CWP-2023 has been filed for staying the auction which is stated to be held on 26.04.2023 as per the auction notice dated 09.04.2023 (Annexure A-2), wherein the outstanding amount is shown as ₹19,65,085/- as on 16.01.2020. Reserve price has been fixed as ₹17,00,000/- of the property, whereas the outstanding amount on 04.03.2023 is shown as ₹ 34,95,659/-.

4. An offer has now been advanced by the counsel for the petitioner that ₹4-5 lacs by way of demand draft would now be deposited with the Bank.

5. However, we are of the considered opinion that the petitioner has availed the benefit by obtaining the said order firstly on 18.07.2022 and having given an undertaking, he has not complied with.

6. In such circumstances, we are of the considered opinion that the writ petition is not liable to be entertained as an extra-ordinary writ jurisdiction is not to be exercised in case of those persons who do not stand by their undertaking.

7. Accordingly, the writ petition is dismissed.
8. Even otherwise, the petitioner has a remedy against the
Section 13 (4) proceedings before the Tribunal under Section 17 of the
Securitization and Reconstruction of Financial Assets and Enforcement of
Security Interest Act, 2002, and therefore he is free to avail the same.
9. Pending miscellaneous application(s), if any, also stand
disposed of.

(G.S. SANDHAWALIA)
JUDGE

April 25, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking Yes

Whether Reportable No