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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13478-2023
Date of decision: 21.09.2023

M/S DHOAT KISSAN SEWA CENTRE AND ANOTHER

.....PETITIONERS

Versus

LD. DISTRICT MAGISTRATE AND OTHERS

.....RESPONDENTS

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

Present: Mr. Sunny K. Singla, Advocate,
for the petitioners.

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

Mr. Chandeep Singh, Advocate
for respondent Nos.2 & 3.

LISA GILL, J. (ORAL)

1. Prayer in this writ petition is for directing the respondent-Bank to regularize Cash Credit Account of the petitioners as it is stated that they are ready to deposit the overdue instalments in terms of judgment of this High Court passed in '***M/s Amar Alloys Private Limited Vs. State Bank of India 2019(3) PLR 81'***. It is further prayed that operation of notice dated 18.05.2023 (Annexure P-4) should be stayed.

2. It is submitted that the petitioner No. 1 availed cash credit limit for a sum of Rs.20 lacs in the year 2013. Petitioner No.2 is the proprietor of petitioner No.1. The amount due was statedly being paid regularly upto June, 2022. Thereafter, due to some unavoidable circumstances, there was financial indiscipline on the part of petitioner No.1. Proceedings under the

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (For short SARFAESI Act) were initiated by the respondent-Bank after declaring account of the petitioners to be Non Performing Asset (NPA) on 29.11.2021. Notice under Section 13(2) of the SARFAESI Act on 10.02.2023 raising the demand of Rs.22,13,524/- was issued.

3. It is submitted that petitioners on receipt of notice dated 10.02.2023 immediately approached the respondent-Bank while submitting that on 21.12.2022, amount due was Rs.19,82,209/- whereas in notice dated 10.02.2023, it was mentioned to be Rs.22,13,524/-. It is submitted that petitioners have pointed out this irregularity but no action was taken despite petitioners further agreeing to pay the amount in accordance with applicable regulations.

4. Learned counsel for the petitioners, during the course of arguments, submitted that petitioners are ready for One Time Settlement while depositing a sum of Rs.18 lacs within the time period as may be allowed by the respondent-Bank. However, learned counsel for the respondent-Bank submits that the total outstanding due as on today is Rs.27,15,000/-. The Bank is ready to accept 10% less than the said amount within a period of two months, however, their account cannot be regularized/made standard as the account had been recalled. This offer is not acceptable to the petitioners and it is insisted that account of the petitioners should be regularized/made standard.

5. We have heard learned counsel for the parties and carefully perused the file, but do not find any ground to interfere in this matter in exercise of jurisdiction under Article 226 of the Constitution of India.

6. It is settled position of law that no borrower has a vested right to seek One Time Settlement as held by the Hon'ble Supreme Court in ***'The Bijnor Urban Cooperative Bank Limited, Bijnor and others vs. Meenal Aggarwal and others, 2022 AIR (SC) 56'.*** Moreover it has been held by the Hon'ble Supreme Court in ***CELIR LLP vs. Bafna Motors (Mumbai) Pvt. Ltd. and Ors.,*** Civil Appeal Nos. 5542-5543 of 2023, decided on 21.09.2023 that correct position of law has not been laid out in the case of M/s Amar Alloys (supra).

7. In the given circumstances, it is not for this Court to rewrite the terms and conditions of the contract between the parties, while issuing a direction to the respondents to settle for particular terms.

8. Keeping in view the facts and circumstances of the case, present writ petition is dismissed with liberty to petitioners to avail the remedy/remedies as available to them in accordance with law.

9. However, it is always open to the parties to arrive at any mutually acceptable settlement.

(LISA GILL)
JUDGE

21.09.2023
pj

(RITU TAGORE)
JUDGE

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