

CWP-21298-2022

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2023:PHHC:115231-DB

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

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CWP-21298-2022

Date of Decision: 01.09.2023

RAKESH KUMAR AND ANR

... Petitioners

VERSUS

RESERVE BANK OF INDIA AND ORS

....Respondents

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

Present: Mr. Vaibhav Vats, Advocate for
Mr. Brijender Kaushik, Advocate
for the petitioners.

Mr. Gaurav Goel, Advocate and
Mr. Ashutosh, Advocate
for respondent-Bank.

LISA GILL, J.(Oral)

1. Petitioners have filed this writ petition for setting aside order dated 28.07.2022 (Annexure P-5) passed by learned Chief Judicial Magistrate, Faridabad under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002. There is a further prayer for directing the respondents to settle the petitioners account by way of One Time Settlement (OTS).

2. While issuing notice of motion on 20.09.2022 the Co-ordinate Bench directed that subject to the petitioners depositing a sum of Rs.6 lakhs by 23.09.2022, OTS proposal by the petitioners would be considered. Dispossession of petitioners from secured asset was stayed,

subject to abovesaid deposit and till decision qua OTS was taken by the respondent-Bank and communicated to petitioners. Interim order it is clarified would stand vacated in the event of non-payment of Rs.6 lakhs.

3. The said amount was not deposited. Instead petitioners deposited a sum of Rs.3,80,000/- on 03.12.2022. It is brought to our notice that OTS was sanctioned on 13.10.2022 for a sum of Rs.38 lakhs and rest of the amount due i.e. Rs.34,20,000/- was to be deposited by petitioners within 60 days by 15.12.2022. The amount was not deposited. Furthermore, cheque of Rs. 34,20,000/- presented by the petitioners on 17.04.2023 was dishonoured and petitioners are now facing proceedings under Section 138 of Negotiable Instruments Act. It is submitted that total outstanding amount due as on date is approximately Rs.92 lakhs.

4. The above factual position is not denied by learned counsel for the petitioners who submits that more time should be granted to the petitioners to deposit the amount in terms of the OTS.

5. Having heard learned counsel for the parties, we find no merit whatsoever in the submission as raised by learned counsel for the petitioners, hence rejected. It is a settled position that there can be no direction to the bank to enter into a particular OTS and neither can there be a direction for extending the period for deposit of the amount in terms of OTS. Gainful reference in this regard, can be made to the judgments of the Hon'ble the Supreme Court in **State Bank of India Vs. Arvindra Electronics Pvt. Ltd., 2022 AIR (SC) 5517** and **The Bijnor Urban Cooperative Bank Limited, Bijnor and others Vs. Meenal Agarwal and others, 2022 AIR (SC) 56.**

6. It is further to be noticed that petitioners have an efficacious remedy for challenging the proceedings under SARFAESI Act initiated against them by the respondent. Gainful reference in this regard, can be made to judgments of the Hon'ble Supreme Court in M/s South Indian bank Ltd. and others v. Naveen Mathew Philip and another, 2023(2) RCR (Civil) 771, Union Bank of India v. Satyawati Tandon and others, 2010(8) SCC 110 and Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1) R.C.R.(Civil) 34.

7. Learned counsel for the petitioners is unable to point out any exceptional or extraordinary circumstance which calls for interference by this Court in exercise of jurisdiction under article 226 of the Constitution of India.

8. Writ petition is accordingly dismissed with liberty to the petitioners to avail the statutory remedy available to them in accordance with law. Needless to say it is always open to the parties to arrive at a mutually acceptable resolution. There is no expression of opinion on the merits of the matter.

9. Pending applications, if any, also stand disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

01.09.2023

Rimpal

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