

2023:PHHC:165793-DB

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

Civil Writ Petition No. 24529 of 2022(O&M)

Date of Decision: December 22 , 2023.

M/s Shiv Shankar Rice Mill and another PETITIONER (s)

Versus

District Magistrate-cum-Deputy Commissioner, Karnal and others

..... RESPONDENT (s)

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

Argued by: Mr. Shubham Pabbi, Advocate for
Mr. Vivek Goyal, Advocate
for the petitioners.

Mr. Deeptak Grewal, DAG, Haryana.

Mr. Sumit Batra, Advocate
for respondent No.3.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

1. Prayer in this writ petition is for setting aside notice dated 15.06.2022 and 07.09.2022 under Section 13(2) and 13(4), respectively, of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the 'SARFAESI' Act) on the ground that petitioner's account was incorrectly declared NPA (Non-Performing Asset) in violation of RBI guidelines titled 'Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises (MSMEs)' dated 17.03.2016.

2. It is submitted that petitioner No.1 is a MSME unit, running the business of milling paddy since the year 2003. Financial facility for a sum of ₹7

Crores was taken by petitioners from Canara Bank with credit facility being later transferred to respondent No.3-Indian Bank and CC limit to the tune of ₹13 Crores was taken by the petitioners. It was submitted that business of the petitioners was adversely affected due to outbreak of pandemic, COVID-19 due to which there was financial indiscipline.

3. Primary ground raised in this writ petition, on the basis of which notice of motion was also issued by coordinate Bench on 21.10.2022, is that petitioners' account is claimed to be illegally declared NPA in violation of abovesaid RBI guidelines dated 17.03.2016 which statedly mandate that before account of MSME is declared NPA its case for restructuring and revival should be sent to the designated Committee. It was further submitted that petitioners had approached respondent-Bank for restructuring of the loan and in the alternate, to settle its account under One Time Settlement. Action initiated under the SARFAESI Act by respondent No.3 against petitioners is alleged to be *per se* illegal. It was, thus, prayed that this writ petition be allowed.

4. Respondent No.3-Bank contested the writ petition. Preliminary objection regarding entertainability of this writ petition was raised in view of alternate efficacious remedy for redressal of their grievance being available to petitioners under the SARFAESI Act. Learned counsel for respondent No.3 further submitted that present writ petition in any case is rendered infructuous as petitioner's case for revival or restructuring was declined by the Committee. Moreover, all the pleas raised in this petition, it was submitted, can very well be raised before learned Tribunal. It was additionally argued that Bank officials had visited petitioners' unit on 17.12.2022 when signboard of petitioner No.1 was found missing with the name of one "BAV Rice Mill" found affixed. Inadequate stocks of paddy and rice were also found. Requisite documents/information was

never made available by petitioners for the purpose of restructuring. It was pointed by learned counsel for respondents that petitioners’ case for restructuring/revival was rejected by the Committee for stressed MSME on 13.01.2023 (Annexure R3/1) and due intimation in this regard was sent to petitioners vide communication dated 06.02.2023 (Annexure R3/2). It was, thus, prayed that this writ petition be dismissed.

5. Learned counsel for petitioners had, however, contended that rejection of petitioner's case for restructuring/revival is illegal and arbitrary, rendered by an incompetent committee in complete violation of applicable rules/regulations/circulars.

6. Learned counsel for parties were heard and file carefully perused.

7. Controversy as involved in this writ petition, is squarely covered against the petitioner in view of decision dated 18.12.2023 in CWP No.21657 of 2022 titled ‘M/s Technico Strips and Tubes Pvt. Ltd. and another v. Deutsche Bank AG and another’ and connected writ petitions. We do not find any distinguishing feature in this petition which calls for intervention.

8. Keeping in view the facts and circumstances as above, we do not find any ground for interference in this writ petition in exercise of jurisdiction under Article 226 of Constitution of India.

9. Writ petition is, accordingly, dismissed in the same terms as decision dated 18.12.2023 in CWP No.21657 of 2022.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 22 , 2023.
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