

275(2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 11.01.2024

(1)

CWP-21880-2021(O&M)

M/S GOOD WILL ENTERPRISES AND ANOTHER

..... Petitioners

Versus

BANK OF BARODA AND ANOTHER

..... Respondents

(2)

CWP-299-2022(O&M)

MANISH KUMAR

..... Petitioner

Versus

BANK OF BARODA AND OTHERS

..... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Aalok Jagga, Advocate and
Mr. H.S.Jagdev, Advocate
for petitioners in CWP21880-2021.

Mr. Shiv Kumar Sharma, Advocate
for petitioner in CWP-299-2022 (through V.C.).

Mr. C.S.Pasricha, Advocate
for respondent-Bank.

Mr. Deepinder Singh, Advocate
for respondent No.3 in CWP-299-2022.

LISA GILL, J.

1. This order shall dispose of both the above said writ petitions as they pertain to the same property in question i.e. Secured Asset in the same loan account. CWP-21880-2021 has been filed by the borrowers of loan account seeking setting aside of sale notice dated 12.10.2021 (Annexure P-11) Securitization and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act) and direction to respondent-Bank to settle petitioners account by way of One Time Settlement (OTS).

2. Notice of motion was issued in this writ petition on 09.12.2021. Shorn of unnecessary details, it is to be noted that initially conditional interim order was granted in favour of petitioners but due to non-compliance thereof, property in question had been successfully auctioned by respondent-Bank in favour of one Manmohan Goyal i.e. respondent no.3 in CWP-299-2022.

3. CWP-299-2022 has been filed by petitioner claiming to be one of the bidders in the auction proceedings pertaining to sale notice dated 12.10.2021. Petitioner therein challenges sale confirmation letter dated 23.12.2021 issued in favour of respondent No.3-Manmohan Goyal, on the ground that said petitioner was not given a fair chance to increase his bid.

4. Learned counsel for respondent-Bank submits that both the writ petitions are rendered infructuous because successful auction purchaser has sought refund of total amount deposited by him without any interest and Bank has decided to refund the same. Proceedings for auction of property in question would be taken afresh in accordance with law. Learned counsel for successful auction purchaser verifies that he has agreed to accept the amount deposited without any interest.

5. Learned counsel for petitioners in CWP-21880-2021 does not deny that this writ petition is indeed rendered infructuous, however, he seeks liberty to petitioners to challenge any further action, which may be

taken by respondent-Bank to auction the property, in accordance with law.

6. Learned counsel for petitioners in CWP-299-2022 is also unable to deny that in view of facts and circumstances as above, said writ petition is also rendered infructuous.

7. Accordingly, both writ petitions are disposed of as infructuous, without expression of any opinion on the merits or even entertainability thereof. Needless to say, it is always open to the borrower and creditor to arrive at any mutually acceptable settlement.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

11.01.2024

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