

(2008) 07 P&H CK 0055

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Major Singh and Another

APPELLANT

Vs

State Bank of India

RESPONDENT

Date of Decision: July 3, 2008

Citation: (2008) 152 PLR 50 : (2008) 3 RCR(Civil) 683

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Ranjit Singh, J.

Through the present revision petition, the petitioners have impugned the order passed by Addl. Civil Judge (Senior Division), Sangrur, who has declined the application filed by the petitioners for discharge of the liability arising out of loan as per one time settlement.

2. The petitioners have taken loan for agriculture purpose, which they could not repay statedly on account of some adverse circumstances in the family. This usually is the plight of a farmer, who is invariably a victim of vagaries of weather and is generally at a loss in the profession of agriculture. This problem is acute and had prompted the Government of India to come out with a scheme of loan waiver in favour of the farmers, which in itself would speak about the gravity of the situation in which the farmers in this country are placed. The Bank obviously more concern with its recovery, filed a civil suit, which was decreed against the petitioners requiring them to pay Rs. 5,76,614.50 Ps. Having obtained the decree, the Bank filed an execution application for recovery of the said amount. During the pendency of this application, the respondent-bank issued a letter dated 27.6.2007 granting some concessions to the loanees, if they opted for one time settlement. The petitioners have placed on record a copy of the communication containing terms of settlement as Annexure P-1. In terms of the scheme on the basis of the instructions, issued by Reserve Bank of India, the petitioners were offered the following conditions as one

time settlement:

1. The application should reach to the Bank by 30.06.2007 and deposit the balance amount within one month thereafter.
2. The amount which comes to be paid by you amounts, to Rs. 7,28,000/- (including interest and other misc expenditure).
3. The settled amount in your case comes to Rs. 4,73,000/- approximately till the date of N.P.A.
4. For settlement of the agreed amount:

(a) The settled amount shall be deposited as below:

The 25% of the settled amount shall be deposited within 30 days and rest of the 75% shall be paid by you in one or two installments in a year. (Either Kharif or Rabi crop or in one instalment after harvesting the sugar cane crop).

After the settlement by the Bank 7% for the short period and for the long period the interest as per S.B.A.R. the lesser between the two shall be charged and if the settled is deposited within 90 days, no interest shall be charged thereon.

3. It is further provided in the scheme that if the settled amount is not deposited during the time, then the settlement would come to an end and no concession or facilities shall be provided and the whole amount then shall have to be got deposited.

4. The petitioners accordingly approached the Bank authorities with the request to accept 25% of the settled amount, i.e. Rs. 4,73,000/- as was mentioned in letter Annexure P-1, part of which is reproduced above. This letter, which is dated 27.6.2007, reached the petitioners on 30.6.2007, which was the time given for availing the benefit by moving the application. In this background, the petitioners have filed an application before the Executing Court on 25.8.2007 for allowing them to deposit the amount in terms of one time settlement communicated to them through letter dated 27.6.2007. In response, the Bank expressed its readiness to accept the amount subject to the decision from the Zonal Office and accordingly stated so in the reply, copy of which is at Annexure P-3. The court, however, still chose to decline the prayer of the petitioners on the ground that the scheme was not in existence after 31.7.2007 and as such no order can be passed on this application. The petitioners have, thus, filed the present revision petition impugning the said order.

No one has appeared on behalf of the Bank despite service.

5. The counsel for the petitioners is justified in making a serious grievance about the approach adopted by the court. Despite the helpful attitude of the Bank by expressing its willingness to accept the settled amount subject to the directions

from the Zonal Office, the court adopted a rather technical attitude to deny the prayer of the petitioners. The approach by the Court to deny the benefit of the scheme to the petitioners on the ground that the scheme is not in existence is even not the stand of the Bank. The court instead of being helpful has been hindrance in the amicable settlement of the dispute which would have resulted in ending this lis. The petitioners apparently could not make a timely approach as they were not given even the breathing time to react. The Court has compounded the matter by adopting a rigid technical attitude. Since, the Bank was willing to accept the amount by way of settlement subject to approval by Zonal Office, the court should have encouraged the settlement instead of choosing a course which was even not pleaded.

6. The impugned order, as such, cannot be sustained. Once the offer was made by the Bank for one time settlement and was availed by the petitioners, the equity and fair play would require that the petitioners are not denied the benefit accruing on account of this scheme. The impugned order is accordingly set aside. The petitioners would have liberty to deposit the amount of Rs. 4,73,000/- in terms of the settlement as contained in Annexure P-1 and as reproduced above. This shall be subject to the modification that 50% amount, which the petitioners have already deposited pursuant to the order passed by this Court on 5.10.2007 shall be adjusted as a first installment. The petitioners shall deposit the remaining amount in one or two installments as per the time stipulated in the settlement. Other terms of the settlement shall remain in operation. 7. The revision petition shall stand allowed in the above terms. There shall, however, be no order as to costs.

7. The auction proceedings, which were in progress, shall also terminate.