

(2021) 10 SHI CK 0063

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 6624 Of 2021

M/S Ekta Enterprises Through Its Proprietor

APPELLANT

Vs

Authorized Officer, Punjab National Bank And Others

RESPONDENT

Date of Decision : 27-10-2021

Acts Referred:

Citation : (2021) 10 SHI CK 0063

Hon'ble Judges : Tarlok Singh Chauhan, J;Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Lovneeesh Kanwar, Nitin Misra, Ashok Sharma, R.S. Dogra, Shiv Pal Manhans, Ashwani K. Sharma

Final Decision : Disposed Of

Judgement

Tarlok Singh Chauhan, J

1. The instant petition has been filed for the grant of following substantive reliefs:-

"A. That this Hon'ble Court may kindly be pleased to issue a writ of certiorari quashing the notice dated 7.11.2020 (Annexure P -1), notice dated 8.1.2021 (Annexure P-2) and order dated 18.8.2021 (Annexure P-4).

B That in case this Hon'ble court comes to the conclusion that the notices have been rightly issued by the respondent bank then this Hon'ble Court may kindly be pleased to issue writ of mandamus directing respondent-bank to allow the petitioner to repay the outstanding amount in six equal installments."

2. It is more than settled that this Court has taken a consistent view that a writ is not maintainable in the matters of any adjudication before the Debt Recovery Tribunal (DRT) or the Debt Recovery Appellate Tribunal (DRAT). However, very peculiar situation has arisen in the instant case as the posts of Presiding Officers of DRT-I, II and III, Delhi and also DRT-I, II and III, Chandigarh are lying vacant and no additional charge of these DRTs has been entrusted/assigned by the

Department of Financial Services. Even though initially the Presiding Officer, DRT, Jaipur was nominated to deal with the extreme urgent cases of both the regions, i.e. Delhi and Chandigarh, however, vide a subsequent notification dated 05.10.2021, issued by the DRAT, the powers conferred upon the DRT, Jaipur to deal with the extreme urgent cases of DRT-I, Chandigarh, was withdrawn, constraining the petitioner to file the instant petition, being virtually remediless.

3. The Principal Division Bench of this Court, after taking into consideration these peculiar facts and circumstances as narrated above, while disposing of CWP No.6587 of 2021, titled Swaroop Chand Dhiman and another Versus Punjab National Bank and others, observed as under:-

"7. In the normal course, this Court having already held that the petitioners have alternative efficacious remedy available to them to approach the DRT and they having already approached the Tribunal by filing appropriate application, the present writ petition could not have been entertained on the same subject matter, but in the peculiar facts and circumstances of the case, the remedy said to be available to the petitioners before DRT, in fact, is not available in the absence of the posting of any Presiding Officer, not only in DRT-I, and other two DRTs at Chandigarh, particularly when the additional charge given to DRT Jaipur for entertaining the extremely urgent matters also stands withdrawn. Such remedy cannot be said to be efficacious in the present circumstances.

8. In view of the above, the present writ petition is disposed of with liberty to the petitioners to approach Debt Recovery Appellate Tribunal within a period of 15 days from today, which shall pass the appropriate orders on the application of the petitioners, in accordance with law. Respondents No.1 and 2, shall till then maintain status quo with regard to the property in question. However, this order shall come to an end on the expiry of 15 days i.e. on 8.11.2021. It would be for the DRAT to pass any further order thereafter in its discretion, in accordance with law. Pending application(s), if any, shall also stand disposed of."

4. We see no reason to take a different view from the one taken by the Principal Division Bench. Accordingly, while disposing of this petition, we grant liberty to the petitioner to approach the DRT, Chandigarh within a period of 30 days from today, which shall pass appropriate orders on the application of the petitioner for stay in accordance with law. However, in case the Tribunal is not constituted within the aforesaid period, then the petitioner shall be at liberty to approach the Appellate Tribunal, New Delhi, which, needless to say, shall pass orders as warranted under law. Till then, respondents No.1 and 3 shall maintain status quo with regard to the property in question.

5. The writ petition stands disposed of in the above terms, so also the pending application(s), if any.

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