

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

CR No. 3010 of 2013 (O&M)

Date of decision: 30.10.2015

Allahabad Bank and another

... Petitioners

versus

Pawan Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ram Chander, Advocate for the petitioners.

Mr. Parvez Chugh, Advocate for the respondents.

K.Kannan, J.

There is no need for intervention in revision, particularly in view of the fact that the Bank has not been fettered in any way from resorting to an action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act') for realization of the debt due to it by enforcement of the secured debt. The suit has been filed on a plea of certain fraud in the entries relating to the alleged borrowing and it is needless to state that if the plaintiffs establish the fraud and able to show that the Bank was not a creditor for the amount for which action was being taken, the Civil Court adjudication will operate to the extent to which it is competent. The Bank will be at liberty to take up any objection even as regards the maintainability of the suit itself and contend that the suit is also barred by law. The Civil Court will decide the same amongst other issues, since the issue of fraud is the basis of the suit, the rejection of the plaint at the threshold can not be an appropriate remedy and therefore, I will find no error in the order passed by the Court below in dismissing the application for rejection of the plaint, so long as the Banks right of enforcement of security is put at peril.

The civil revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

30.10.2015
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