

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8684 of 2015

Date of decision: 21.12.2015

Kotak Mahindra Bank Ltd.

...Petitioner

versus

Sh. Rambir and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aalok Jagga, Advocate,
for the petitioner.

RITU BAHRI, J.

This petition under Article 227 of the Constitution has been filed for issuance of direction to the Civil Judge (Junior Division), Gurgaon, to decide two applications filed by the petitioner-Bank under Order 7 Rule 11 CPC read with Section 48 of the Transfer of Property Act, 1882 and under Order 39 Rule 4 CPC (Annexure P-6) expeditiously.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner-bank had advanced a loan of Rs.1 crore to respondent No.4 and his wife namely Mrs. Nandini and in order to secure the loan, they had mortgaged House No.24, Road G-19, measuring 167.23 Sq. Mtr in DLF Qutub Enclave Complex, Phase-I, Gurgaon. However, the borrower defaulted in repayment of the loan. Consequently, an Award dated 30.07.2011 was passed by the Arbitrator against respondent No.4, which has attained finality. However, during the pendency of arbitration proceedings in 2010, respondent No.4 had sold the property in dispute to respondent Nos. 1 and 2. The petitioner-bank is facing a civil suit which has been filed by respondent No.1, in which parties have been directed to maintain status quo with regard to

possession over the suit property.

The precise grievance of the petitioner-bank is that its application (Annexure P-6) under Order 39 Rule 4 CPC for modification and vacation of interim order dated 09.08.2011 and another application under Order 7 Rule 11 CPC read with Section 48 of the Transfer of Property Act, 1882 are pending consideration for the last 1½ years.

Since the the Award passed by the Arbitrator has attained finality, the interest of the bank would suffer, if respondent No.1 further alienates the properties in dispute.

In view of the above, this petition is disposed of by giving a direction to the trial Court to decide the applications under Order 7 Rule 11 CPC read with Section 48 of the Transfer of Property Act, 1882 and under Order 39 rule 4 CPC, within a period of three months.

(RITU BAHRI)
JUDGE

21.12.2015
ajp