

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.2563 of 2015 (O&M)

DATE OF DECISION: 23.02.2015

Rajinder Singh

....Petitioner

versus

UCO Bank and others

.....Respondents

**CORAM:- HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Pankaj Gupta, Advocate for the petitioner

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S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

CM-2167-2015:

CMA allowed. The main case is taken up for hearing today itself.

CWP-2563-2015:

The petitioner has challenged an order passed by the District Magistrate under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Act, 2002.

2. The petitioner claims to be the tenant of the premises of which the borrower is the owner. The action has been taken by the first respondent-bank under the said Act. The only question is whether the petitioner, as a tenant, is entitled to be evicted. Incidental thereto is the question as to whether the

petitioner has any right in the premises, secured in favour of the respondent-bank, as a tenant or otherwise.

3. The petitioner has an alternate remedy either under Section 17 of the Act as held by a Division Bench of this Court in M/s Punjab Chemical Industries vs. District Magistrate-cum-Deputy Commissioner, Ludhiana and others (CWP No.15921 of 2014) or in any event by making an application to have his rights adjudicated before the District Magistrate in the proceedings under Section 14 of the Act. The petitioner claims that he was not given any notice on the application under Section 14 nor was he impleaded as a party thereto.

4. If that is so, there is no reason why the petitioner cannot make an application for vacating the order under Section 14 on the ground that he is an affected party and that the order has been passed without his having had an opportunity of dealing with the same.

5. The writ petition is, therefore, disposed off with liberty to the petitioner to adopt appropriate proceedings. In the event of any application not being heard for any reason including on the ground that it is not maintainable, the petitioner shall have a right to file a fresh writ petition on the same ground. In order to enable the petitioner to avail the alternate remedy, the first respondent-bank shall not part with possession of the property pursuant to the auction thereof, if

any, till the petitioner's application for ad interim or interim relief is decided and for a period of two weeks thereafter. This is, however, provided that the petitioner files an application within two weeks from today and takes out an application for ad interim or interim relief therein.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

23.02.2015
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(AUGUSTINE GEORGE MASIH)
JUDGE