

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

CR No.4174 of 2015

Date of decision : 11.04.2016

Inderpal Singh Khurana

...Petitioner

Versus

ICICI Bank Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Rahul Rampal, Advocate for the petitioner.

Mr. Sandeep Suri, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

Prayer in the petition is for setting aside of the order, whereby application on behalf of the bank seeking impleadment by invoking the provision of Order 1 Rule 10 in suit for recovery of ₹10,30,000/- instituted by the petitioner-plaintiff against the respondents-defendants, has been allowed.

Mr. Rahul Rampal, learned counsel appearing on behalf of petitioner submits that suit for recovery was instituted against the defendants on the basis of the pronote and receipt and in the aforementioned suit, application under Order 38 Rule 5 of Code of Civil Procedure was

filed for attachment of the equipment and machinery of the defendants which was allowed. There is no privity of the contract between the bank and the petitioner-plaintiff. Foundation on the basis of which the bank sought impleadment has been that suit was collusive between the petitioner-plaintiff and defendant as the applicant-bank had extended a loan to the defendants much prior to the alleged loan transaction between the plaintiff and defendants. Even otherwise machinery and equipment of the defendants have been hypothecated and in this regard bank has already taken steps for recovery of the amount by moving an application before Debts Recovery Tribunal wherein receiver has been appointed to take the possession of the hypothecated equipment and machinery and as well as to prepare the list of goods and thus urges this Court for setting aside of the impugned order.

Mr. Sandeep Suri, learned counsel appearing on behalf of respondent No.1 submits that owing to the factum of appointment of receiver in proceedings before DRT, bank interest is most important as a matter in issue is directly and incidentally the same, therefore, in order to avoid the contradictory judgment, much less, any multifariousness an application was moved and thus urges this Court for affirmation of the order under challenge.

I have heard learned counsel for the parties and appraised the paper book and of the view that it is settled law that whenever a party is extended the loan by the bank, bank has a first charge. In any case plaintiff succeeds in getting the suit decreed, it would be a second charge and, therefore, there would not be any impediment in seeking recovery. Bank shall be at liberty to bring on record the subsequent events which may occur

in DRT proceedings before the trial Court for the purpose of having a productive and fair order but not in the manner and mode seeking impleadment as there is no privity of contract between the petitioner-plaintiff and defendants.

Accordingly, impugned order whereby application under Order 1 Rule 10 of CPC has been allowed, is hereby set aside.

Revision petition with aforesaid observation stands allowed.

11.04.2016

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**(AMIT RAWAL)
JUDGE**