

In the High Court of Punjab and Haryana at Chandigarh.

**CWP-COM- 31 of 2016
Decided on 06.12.2016**

M/s. Jai Bharat Business House Pvt.Ltd.

--Petitioner

Vs.

Bank of Maharashtra

--Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Pankaj Gupta, Advocate, for the petitioner

Rakesh Kumar Jain,J: (Oral)

This petition is filed to challenge the notice dated 16.9.2016 issued under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short,'the Act') and the possession notice under Section 13 (4) of the Act.

In short, the respondent Bank had sanctioned cash credit limit of ₹10,66,022/-. The bank issued notice dated 16.9.2016 under Section 13 (2) of the Act.

After receiving the notice, the petitioner deposited ₹11.0 lacs and submitted its reply to the notice. It is alleged that instead of deciding the objections in terms of Section 13 (3-A) of the Act, proceedings under Section 13 (4) of the Act have been carried out and symbolic possession of the industrial plot belonging to the petitioner has been taken.

At the threshold, learned counsel for the petitioner is asked as to whether the proceedings carried out under Section 13 (4) of the Act is amenable to appeal under Section 17 of the Act to which he has candidly confirmed. However, he has still insisted that this Court may invoke its extra ordinary jurisdiction to protect the right of the petitioner

available under Section 13 (3-A) of the Act. In support of his contention, he has relied upon a Division Bench judgment of this Court in the case of **Harminder Singh and Anr. Vs. State Bank of India** 2008 (2) Bank J 170.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that once the order under Section 13 (4) of the Act is passed, remedy lies only before the Debt Recovery Tribunal in terms of Section 17 of the Act. The jurisdiction of this Court is extra ordinary, conferred by virtue of Articles 226 and 227 of the Constitution of India, which deals with the extra ordinary situation where statutory remedies are not available under the statute. In the present case, once statutory remedy is available, I refuse to invoke my extra ordinary jurisdiction to entertain this petition.

At this stage, learned counsel for the petitioner prays for withdrawal of this petition in order to avail his other remedy.

Dismissed as withdrawn.

Liberty granted.

06.12.2016
rr

(Rakesh Kumar Jain)
Judge

Whether Speaking/Reasoned: **Yes/No.**

Whether Reportable: **Yes/No**