

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

C.W.P. No.16309 of 2017

Date of Decision:-03.08.2017

Gold Field Shiksha Sanstha and another

....Petitioners

vs.

Allahabad Bank

....Respondent

**CORAM:- HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Mr. Gaurav Srivastava, Advocate,
Mr. Pallav Saxena, Advocate and
Ms. Palak Dev, Advocate,
for the petitioners.

Mr. Anupam Gupta, Senior Advocate with
Mr. R.S. Manhas, Advocate and
Mr. Ashok Kumar, Advocate,
for the caveator-respondent.

Mr. Vikas Behl, Senior Advocate with
Mr. Keshav Pratap Singh, Advocate and
Ms. Harbani Singh, Advocate,
for the Auction-purchaser.

Surya Kant J. (Oral)

The instant writ petition filed at the instance of borrowers assails the order dated 29.06.2017 (Annexure P-1) passed by the Debt Recovery Appellate Tribunal, Delhi, whereby the petitioners have been directed to deposit 25% of the amount which was being claimed by the respondent-Bank under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the 2002 Act'), as a pre-condition to entertain their appeal against the order dated 30.3.2017 passed by

the Debt Recovery Tribunal-II, Chandigarh (Annexure P-27). The Debt Recovery Tribunal-II, Chandigarh dismissed the petitioners' S.A. being premature on the ground that physical possession of the 'secured assets' was still with them.

It is a matter of record and not disputed by learned counsel for the parties that during pendency of these proceedings, the District Magistrate, Faridabad, in exercise of powers under Section 14 of the 2002 Act, passed the order dated 02.08.2017 directing Tehsildar, Badkhal, to take over the physical possession of 'secured assets' mentioned therein, with a further direction to the Commissioner of Police, Faridabad, to provide adequate police assistance to the authorized officer in the process of taking physical possession.

It is stated by Sh. Anupam Gupta, learned senior counsel for the Bank, on instructions from the Chief Manager of the Bank, that in compliance of the above-stated order, physical possession of the 'secured assets' comprising land and building of running school has been taken over today afternoon.

Since the Securitization Application filed by the petitioners was dismissed by the Debt Recovery Tribunal-II, Chandigarh, as premature on the premise that physical possession of the 'secured assets' was still with them and the said physical possession has been today taken over by the Bank pursuant to the order of the District Magistrate dated 2.8.2017, the very objection taken by the DRT-II, Chandigarh for not ascertaining the S.A. has disappeared. There is, thus, no legal impediment against filing of a fresh

which they have taken in their earlier S.A. The above-stated subsequent event also renders order dated 29.6.2017 of the D.R.A.T., Delhi, as infructuous and ineffective.

For the reasons afore-stated, we dispose of this writ petition with liberty to the petitioners to file a fresh S.A. on the same cause of action with a further direction to D.R.T.-II, Chandigarh to decide the same expeditiously but not later than three months.

**(SURYA KANT)
JUDGE**

**August 03, 2017
poonam**

**(SUDHIR MITTAL)
JUDGE**

Whether Speaking/Reasoned

Yes

Whether Reportable

No