

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

CWP No. 21710 of 2017 (O&M)

Date of decision : 25.9.2017

M/s Om Parkash Krishan Kumar .. Petitioner
versus
Oriental Bank of Commerce and another .. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill**

Present: Mr. Viren Jain, Advocate, for the petitioner.
Mr. Raj Kumar, Advocate, for the respondents.

Rajesh Bindal, J.

The petitioner has challenged the order dated 10.4.2017 passed by the Debts Recovery Tribunal-II, Chandigarh (for short, 'the Tribunal'), whereby SA No. 161 of 2017 filed by the petitioner impugning the action taken by the Bank under Section 17 of the SARFAESI Act, 2002, was dismissed as premature relying upon the judgment of DRAT, Delhi in Misc. Appeal No. 60/16 titled as Vikram Bakshi & Company Pvt. Ltd. Vs. Housing Development Finance Corporation Ltd. & others, decided on 20.3.2017.

Short submission made by learned counsel for the petitioner is that the aforesaid judgment of DRAT, Delhi has been stayed by Delhi High Court in W.P. (C) 2966 of 2017 titled as Vikram Bakshi & Company Pvt.Ltd. vs. Housing Development Finance Corporation Ltd. & others on 10.4.2017. He further referred to the order passed by this Court in a bunch of writ petitions with main order in CWP-COM No.62 of 2017 titled as M/s Hall Mark Steel Pvt. Ltd. and others vs. Federal Bank and others, decided on 21.4.2017, whereby under identical circumstances, order passed by DRT

was set aside. The matters were remitted back. Reference has also been made to the order passed in CWP No.18721 of 2017 titled as Mohinder Singh and another vs. HDFC Bank and another, decided on 31.8.2017. The prayer is that the order passed by the Tribunal be set aside and the matter be remitted back to be decided on merit. He further submitted that the possession of the property of the petitioner was sought to be taken for default in payment of ₹ 1,07,85,721/-, though not admitted by the petitioner.

On the other hand, learned counsel for the Bank, while not disputing the aforesaid orders passed by this Court submitted that the matter may be considered by this Court on merits instead of remitting it back.

After hearing learned counsel for the parties and considering the earlier orders passed by this Court in M/s Hall Mark Steel Pvt. Ltd. and Mohinder Singh's cases (supra), in our view, the impugned order dated 10.4.2017 (Annexure P-3) deserves to be set aside.

Ordered accordingly.

The matter is remitted back to the Tribunal for decision on merit. The parties through their counsels are directed to appear before the Tribunal on 4.10.2017. Till the next date fixed before the Tribunal coercive action against the petitioner shall remain stayed.

(Rajesh Bindal)
Judge

25.9.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No