

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

CWP No. 24121 of 2017 (O&M)

Date of decision : 25.10.2017

Anand Kumar and another .. Petitioners
versus
The Debts Recovery Tribunal-II and others .. Respondents

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

Present: Mr. Atul Sharma, Advocate, for the petitioners.
Mr. Vipul Dharmani, Advocate, for respondent nos. 2 and 3.

Rajesh Bindal, J.

The petitioners have challenged the order dated 1.4.2017 passed by the Debts Recovery Tribunal-II, Chandigarh (for short, 'the Tribunal'), whereby SA No.131/17 filed by the petitioners impugning the action taken by respondent no. 3, under Section 13(4) 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 petitioners 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 petitioners was sought to be taken for default in payment of ₹ 1,52,91,051/-.

On the other hand, learned counsel for respondent nos. 2 and 3, 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 1.4.2017 (Annexure P-1) 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 15.11.2017.

(Rajesh Bindal)
Judge

25.10.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No