

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

**CWP No. 25742 of 2017 (O&M)**

Date of decision : 28.11.2017

M/s Satyam Organic Farming Pvt. Ltd. and others .. Petitioners

versus

Punjab National Bank and another .. Respondents

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

**Present:** Mr. Dilpreet Singh Gandhi, Advocate, for the petitioners.  
Mr. Arvind Rajotia, Advocate, for the respondents.

**Rajesh Bindal, J.**

The petitioners have challenged the order dated 7.11.2017 passed by the Debts Recovery Tribunal-II, Chandigarh (for short, 'the Tribunal'), whereby SA No.850/2017 filed by the petitioners impugning the action taken by the Bank under Section 13(4) of the SARFAESI Act, 2002 (for short, 'the Act'), was dismissed as premature noticing that possession of the property had not been taken.

Short submission made by learned counsel for the petitioners is that 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, under identical circumstances had set aside the order passed by DRT. Application under Section 17 of the Act was held to be maintainable even before possession of the property is taken. The matters were remitted back. Reference has also been made to another 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.

On the other hand, learned counsel for the respondents, while not disputing the aforesaid orders passed by this Court submitted that once reply has been filed by it, the matter may be considered by this Court on merits instead of remitting it back for seeing the conduct of the petitioners.

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 7.11.2017 (Annexure P-12) 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 18.12.2017.

The petition stands disposed of.

(Rajesh Bindal)  
Judge

(Gurvinder Singh Gill)  
Judge

28.11.2017  
sharmila

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