

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

CWP No. 7313 of 2017 (O&M)

Date of decision : 19.9.2017

Vivek Kumar

.. Petitioner

versus

UCO Bank and another

.. Respondents

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

Present: Mr. Rohit Suri, Advocate, for the petitioner.

Mr. Sumit Batra, Advocate, for respondent No.1.

Rajesh Bindal, J.

The petitioner has challenged the order dated 27.3.2017 passed by the Debts Recovery Tribunal-I, Chandigarh (for short, 'the Tribunal'), whereby SA No.95/17 filed by the petitioner impugning the action taken by the Bank 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 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 ₹ 37,00,000/-, though not admitted by the petitioner, however, he has already deposited ₹ 10,00,000/-.

On the other hand, learned counsel for the Bank, while not disputing the aforesaid orders passed by this Court and deposit of ₹ 10,00,000/- by the petitioner, submitted that once reply has been filed by the Bank, 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 27.3.2017 (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 3.10.2017.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

19.9.2017
sharmila

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