

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CWP-COM No.62 of 2017
Date of Decision: 21.04.2017

M/s Hall Mark Steel Pvt. Ltd. and others

....Petitioners

Vs.

Federal Bank and others

....Respondents

2.

CWP-COM No.66 of 2017

M/s GR Industries, Mohali and others

....Petitioner

Vs.

Authroised Officer, Allahabad Bank and another

....Respondents

3.

CWP-COM No.68 of 2017

Bimla Devi

....Petitioner

Vs.

Manager, Punjab Natinoal Bank, Sangrur

....Respondent

4.

CWP-COM No.74 of 2017

Neena Aggarwal

....Petitioner

Vs.

Debts. Recovery Tribunal-III, Chandigarh and another

....Respondents

5.

CWP-COM No.75 of 2017

Rakesh Kumar Bagril and another

....Petitioners

Vs.

Central Bank of India and others

....Respondents

6.

CWP-COM No.78 of 2017

M/s Punjab Rice & General Mills and others

....Petitioners

Vs.

Oriental Bank of Commerce and others

....Respondents

7.

CWP-COM No.79 of 2017

M/s Khanna Knitwears and others

....Petitioners

Vs.

State Bank of India and others

....Respondents

8.

CWP-COM No.80 of 2017

M/s CL Engineering Pvt. Ltd. and others

....Petitioners

Vs.

Kotak Mahindra Bank and others

....Respondents

9.

CWP-COM No.81 of 2017

Vinod Kumar and others

....Petitioners

Vs.

ICICI Bank Ltd. and others

....Respondents

10.

CWP-COM No.82 of 2017

M/s Akshaj Infra Private Limited

....Petitioner

Vs.

Kotak Mahindra Bank and another

....Respondents

CORAM: HON’BLE MR.JUSTICE R.K. JAIN

Present: Mr.Shakti Kaushik, Advocate, for
Mr.Aalok Jagga, Advocate,
for the petitioners.
(in CWP-COM-62-2017).
(in CWP-COM-78-2017).
(in CWP-COM-79-2017).
(in CWP-COM-80-2017).
(in CWP-COM-81-2017)
(in CWP-COM-82-2017)

Mr.Mayur Kanwar, Advocate, and
Mr.Manish Jain, Advocate,
for the petitioners
(in CWP-COM-66-2017).

Ms.Sudha, Advocate,
for the petitioner
(in CWP-COM-68-2017).

Mr.Pankaj Gupta, Advocate,
for the petitioner
(in CWP-COM-74-2017).

Mr.Vivek Goyal, Advocate,
for the petitioner
(in CWP-COM-75-2017).

Mr.Nitin Grover, Advocate,
for respondent No.1.
(in CWP-COM-62-2017).

Mr.Sumit Batra, Advocate,
for respondent No.1
(in CWP-COM-66-2017)

Mr.Raj Kumar, Advocate,
for respondent No.1.
(in CWP-COM-78-2017)

Mr.Rakesh Gupta, Advocate,
for respondent No.1.
(in CWP-COM-79-2017)

Mr.Sandeep Suri, Advocate,
for respondent No.1
(in CWP-COM-80-2017)
(in CWP-COM-81-2017)

Mr.B.B. Bagga, Advocate, and
Ms.Amrita Singh, Advocate,
for respondent No.1
(in CWP-COM-82-2017).

RAKESH KUMAR JAIN, J. (ORAL)

This order shall dispose of 10 petitions bearing, CWP-COM Nos.62, 66, 68, 74, 75, 78 to 82 of 2017 in which common issue involved is as to whether the Securitisation Application filed by the borrower/guarantor can be dismissed by the Debt Recovery Tribunal [DRT] on the ground that the borrower/guarantor has not lost possession before filing the Securitisation Application in view of a decision rendered by the Debt Recovery Appellate Tribunal, Delhi [DRAT] on 20.03.2017 in Misc. Appeal No.60/2016 arising out of S.A. Dy. No.8/2016 (DRT-II, Delhi) titled as ***Vikram Bakshi & Company Pvt. Ltd. Vs. Housing Development Finance Corporation Ltd.?***

Shorn of unnecessary details, the Securitisation Applications were being entertained by the DRT(s) at Chandigarh till an order was passed by the DRAT in the case of ***Vikram Bakshi & Company Pvt. Ltd. (Supra)*** in which it was held that the Securitisation Applications have been treated as premature because the borrower/guarantor has not lost possession of the mortgaged property.

Learned counsel for the petitioner has produced the order passed by Delhi High Court in WP (C) 2966 of 2017 in case titled as ***“Vikram Bakshi & Company Pvt. Ltd. Vs. Housing Development Finance Corporation Ltd. and others”*** in which the Division Bench of the Delhi High Court, vide its order dated 10.04.2017, stayed the effect and operation of the order dated 20.3.2017 passed by the DRAT in Misc. Appeal No.60/2016 in the case of ***Vikram Bakshi & Company Pvt. Ltd. (Supra)***.

Learned counsel for the petitioner has submitted that since the operation of the order passed in Misc. Appeal No.60/2016, in the case of

Vikram Bakshi & Company Pvt. Ltd. (Supra) has already been stayed, which forms the basis of the order having been passed by the various benches of the DRT at Chandigarh, therefore, the impugned order cannot be sustained and deserves to be set aside.

On the other hand, learned counsels appearing on behalf of various Secured Creditors have submitted that the order passed in Misc. Appeal No.60/2016 in the case of ***Vikram Bakshi & Company Pvt. Ltd. (Supra)*** has only been stayed and not set aside so far and therefore, there is no error in the order passed by the various benches of the DRT at Chandigarh in not entertaining the application of the borrower/guarantor, challenging the proceedings initiated under Sections 13(4) & 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short 'the Act'].

I have heard learned counsel for the parties and after examining the available record, am of the considered opinion that the impugned order is unsustainable in the eyes of law because it is based upon the order passed in Misc. Appeal No.60/2016 in the case of ***Vikram Bakshi & Company Pvt. Ltd. (Supra)*** which has already been stayed by Division Bench of Delhi High Court and thus, at present the effect of the order passed in Misc. Appeal No.60/2016 in the case of ***Vikram Bakshi & Company Pvt. Ltd. (Supra)*** is no more there which can deter the DRT(s) at Chandigarh to entertain the Securitisation Applications preferred by the borrower/guarantor against the proceedings initiated under Sections 13(4) and 14 of the Act before losing their possession over the mortgaged property.

Thus, all the writ petitions are hereby allowed and the impugned orders passed by the DRT(s) at Chandigarh in their respective cases are set aside and the all the matter are remanded back to the DRT(s),

Chandigarh to entertain the Securitisation Applications of the borrower/guarantors, to restore the same to its original number and decide them as early as possible, in accordance with law.

The petitioners are directed to appear before the DRT(s), Chandigarh on or before 08.05.2017.

A photocopy of this order be placed on the files of other connected cases.

(RAKESH KUMAR JAIN)
JUDGE

21.04.2017

Vivek

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*