

CWP-COM Nos.94, 95, 96 & 97 of 2017

[1]

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

- (1) **CWP-COM No.94 of 2017**
Date of decision:25.04.2017
- Darshan Singh and another ...Petitioners
- Versus
- The Asset Reconstruction Company and others ...Respondents
- (2) **CWP-COM No.95 of 2017**
Date of decision:25.04.2017
- Dinesh Poly Tubes Private Limited and others ...Petitioners
- Versus
- The Debts Recovery Tribunal-III and another ...Respondents
- (3) **CWP-COM No.96 of 2017**
Date of decision:25.04.2017
- M/s Swift Educational and Welfare Society and another ...Petitioners
- Versus
- Bank of India and others ...Respondents
- (4) **CWP-COM No.97 of 2017**
Date of decision:25.04.2017
- M/s Anant Precession P Ltd and others ...Petitioners
- Versus
- The Federal Bank Ltd. and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. L.S.Lakhanpal, Advocate,
for the petitioners in CWP-COM No.94 of 2017.

Mr. Atul Sharma, Advocate,
for the petitioners in CWP-COM No.95 of 2017.

Mr. Vikram Singh, Advocate,
for the petitioners in CWP-COM No.96 of 2017.

Mr. Manuj Nagrath, Advocate,
for the petitioners in CWP-COM No.97 of 2017.

Rakesh Kumar Jain, J. (Oral)

This order shall dispose of four petitions bearing CWP-COM Nos.94, 95, 96 and 97 of 2017, in which a common issue is involved as to whether the Debts Recovery Tribunal(s), Chandigarh (hereinafter referred to as the “DRTs”) could have dismissed the Securitization Application(s) of the petitioner(s) on the ground that these are pre-mature because the applications have been filed by the borrower(s) before the physical possession is taken over by the secured creditor(s). In all the four cases, the orders have been passed by the DRTs in view of an order passed by the the Debt Recovery Appellate Tribunal, Delhi (hereinafter referred to as the “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.”**.

This Court has already disposed of a bunch of petitions by order dated 21.04.2017 with the lead case bearing CWP-COM No.62 of 2017 titled as **“Hallmark Steels Pvt. Ltd. vs. Federal Bank & Ors.”** and set aside the order(s) of the DRT(s) because the order passed by the DRAT in **Vikram Bakshi & Company Pvt. Ltd.'s case (supra)** has been stayed by a Division Bench of the Delhi High Court. Therefore, in view of the peculiar facts and circumstances, I do not find any need to issue notice to the respondents as the issue involved is purely legal, which has already been settled by this Court vide order dated 21.04.2017 passed in **Hallmark Steels Pvt. Ltd.'s case (supra)**.

Consequently, all the four petitions are allowed, impugned orders passed by the DRT(s) at Chandigarh in their respective cases are set aside and all the matters are remanded back to the DRT(s), Chandigarh with a direction

to restore Securitization Application(s) of the petitioner(s) to its original number and decide them as early as possible, in accordance with law.

The petitioner(s) are directed to appear before the DRT(s), Chandigarh on or before 01.05.2017. Till then, the respondent-bank(s)/secured creditor(s) shall not take any coercive steps against the petitioner(s).

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

A copy of this order be given to the learned counsel for the petitioner(s) under signatures of the Special Secretary attached to this Bench.

April 25, 2017
vinod*

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No