

CA-CWP-20-2017 (O&M)in
CWP-COM-20-2017

-1-

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CA-CWP-20-2017 (O&M)in
CWP-COM-20-2017
Date of Decision: March 14, 2018

Religare Finvest Limited and another

.....Appellants

Versus

S.R.Foils and Tissues Limited and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

- | | | |
|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

.....

Present: Mr.Sanjeev Singh and Mr.Harsh Chopra, Advocate
for the appellants.

.....

SURYA KANT, J.

The instant commercial appeal is directed against the order dated 12.05.2017 passed by the learned Single Judge in exercise of jurisdiction as a Commercial Court whereby the writ petition filed by the respondent-borrowers has been allowed and proceedings initiated by the appellant-'financial institution' under Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act') have been set aside.

[2] The issue which fell for consideration before the learned Single Judge was whether the appellants were entitled to take shelter behind Government of India Notification dated 05.08.2016 so as to acquire the status of a 'financial institution' and resort to the measures under the SARFAESI Act? Learned Single Judge vide order under appeal has pointed out that for the purpose of acquiring status as a 'financial institution' under the aforesaid Notification, the appellants could not have clubbed more than

one loans availed by the respondent-borrowers.

[3] Learned counsel for the appellants fairly states that during the pendency of this appeal, the respondent-borrowers have repaid the entire loan amount and their secured asset has been released. It appears that for this reason alone, the respondents have not come forward to contest this appeal.

[4] Learned counsel for the appellants submits that regardless of the settlement of respondents' loan account, the view taken by the learned Single Judge in the order under appeal, is likely to cause impediment against the action(s) initiated/to be initiated by the appellants against other borrowers.

[5] We have heard learned counsel for the appellants at a considerable length. Though there are arguable points raised on behalf of the appellants but keeping in view the fact that no assistance is coming forward on behalf of the respondent-borrowers, we dispose of this appeal, clarifying that the order dated 12.05.2017 of the learned Single Judge, so far as it pertains to clubbing of more than one loan availed by a borrower for the purpose of appellants' status as a 'financial institution' under the Notification dated 05.10.2016 is concerned, shall not be applicable in other cases and the appellants shall be at liberty to raise all the contentions, if need be, in those pending or future proceedings.

**(SURYA KANT)
JUDGE**

March 14, 2018
meenuss

**(SHEKHER DHAWAN)
JUDGE**

- | | |
|---------------------------------------|---------------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |