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

CR 2165-2018(O&M)
Date of decision: 03.04.2018

Parveen Kumar Jain
…..Petitioner

versus

Arvind Kumar Jain
……Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Pritpal Singh Miglani, Advocate for the petitioner

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

<u>Kuldip Singh, J.</u> **(Oral)**

I have heard learned counsel for the petitioner and have also carefully gone through the file.

It comes out that plaintiff filed a suit for permanent injunction against the owners stating that he is tenant and should not be evicted except in due course of law. In the said suit, he got temporary injunction. Later on he filed an application under Order I Rule 10 CPC and Rule VI Rule 17 CPC for impleading ICICI Bank Limited as a party stating that now the Bank is claiming the possession of the said premises.

Trial Court is of the view that a novel method has been adopted by the plaintiff petitioner, whereby while concealing that the proceedings under the SARFAESI Act, 2002 are pending, simple suit for injunction was filed and injunction obtained against the owner. Then the Bank is made party so as to bind the bank with the said injunction order. If defendant has got loan from the bank and the bank moves Debt Recovery Tribunal, then if the said tenant was making any claim, he is to approach the Debt Recovery Tribunal and not Civil Court. It is not disputed that in this case, property was lying mortgaged with the Bank much prior to the filing of the suit. Therefore, even the present suit was not maintainable before the Civil Court, if it had been brought to the notice of the trial Court that the proceedings under the SARFAESI Act, 2002 are pending before Debt Recovery Tribunal. Therefore, the trial Court rightly declined to implead ICICI Bank as party. No ground to interfere in the impugned order. The present petitioner is always at liberty to approach the Debt Recovery Tribunal. It is further directed that any injunction granted in this case will not be binding on the Bank or on the proceedings under the SARFAESI Act, 2002.

Since the main case has been dismissed, therefore, the pending CM, if any, also stands disposed of.

03.04.2018 **(Kuldip Singh)**
gk **Judge**

Whether speaking/ reasoned: Yes
Whether Reportable: No