

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

CR No.7727 of 2016
Date of decision : 09.03.2018

State Bank of India

...Petitioner

Versus

Mann Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajnish Kumar Jindal, Advocate for the petitioner.

Mr. Sandeep Singh Deol, Advocate for respondent No.1.

Mr. Amit Dhawan, Advocate for respondent No.6.

ANIL KSHETARPAL, J. (ORAL)

Dispute in the present case is between the Secured
Creditor/mortgagee and Unsecured Creditor.

The petitioner before this Court is a Secured Creditor. The
question which arises is whether a Secured Creditor would have a
preference to release the amount in preference to an Unsecured Creditor,
who has got a decree from the Civil Court. The law on this aspect is already
settled. Merely because a Unsecured Creditor has got a decree from the
Civil Court in his favour, would not give such Unsecured Creditor
preference over the Secured Creditor. The property is already under
mortgage and the petitioner-Bank is having preferential right as compared to
the Unsecured Creditor.

Counsel for the respondent-Unsecured Creditor submits that after satisfying the claim of the Secured Creditors, the remaining amount has to be defrayed towards the claim of Unsecured Creditor.

Learned counsel for the petitioner does not dispute this position.

In view thereof, the order passed by the learned trial Court is set aside.

Revision petition is allowed.

09.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No