

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-11648-2017

Date of Decision: February 06, 2018

UV Asset Reconstruction Co.Ltd.

.....Petitioner

Versus

District Magistrate, Bathinda and others

.....Respondents

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

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| 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 |

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Present: Mr.Pankaj Jain, Advocate for
Dr.Deepak Jindal, Advocate for the petitioner.

Mr.Sahil Sharma, DAG, Punjab.

Ms.Anna Bansal, Advocate for the respondent.

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SURYA KANT, J.

The petitioner is a 'Financial Institution' within the meaning of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act'). Its grievance in the instant writ petition is that though the District Magistrate, Bathinda, passed an order way back on 02.07.2015 under Section 14 of the SARFAESI Act for handing over physical possession of the secured assets, the local police including the Tehsildar, Bathinda, in collusion and connivance with the borrowers, are not implementing that order.

[2] The official respondents have filed their reply-affidavit. It has

come on record that one Naveen Singla has filed a suit for permanent injunction claiming himself to be the tenant in the premises and the Civil Court, Bathinda, has passed an *ad interim injunction* order to maintain status quo in his favour on 01.12.2015. There is, thus, legal impediment against delivery of physical possession of the 'secured assets'.

[3] There is, however, some merit in the petitioner's plea that the above-mentioned civil suit is collusive one as there was no alleged tenant in the premises when it was mortgaged. In our considered view, the question whether the alleged tenancy is fake and a mere ruse to defeat the provisions of SARFAESI Act can be effectively determined by the Civil Court in the pending injunction suit.

[4] The writ petition is, accordingly disposed of with liberty to the petitioner to move applications (i) for its impleadment in the civil suit; (ii) for vacation of *ad interim injunction* order; and (iii) for rejection of plaint under Order VII Rule 11 of the Code of Civil Procedure for want of jurisdiction. The Civil Court, Bathinda is directed to decide these applications in all circumstances within a period of one month in accordance with the principles of natural justice. If so required, the matter shall be heard on day-to-day basis.

(SURYA KANT)
JUDGE

February 06, 2018
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(SHEKHER DHAWAN)
JUDGE

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