

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.13276 of 2018.

Date of Decision: May 24, 2018

Dena Bank

.....Petitioner

versus

District Magistrate, Ludhiana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Mr.Aalok Jagga, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner-bank is unable to take physical possession of the secured assets/mortgaged properties of the borrowers despite an order passed by the District Magistrate, Ludhiana in favour of the bank under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as the alleged tenant in the property has obtained a decree for permanent injunction from the Civil Court at Ludhiana. It is claimed by the petitioner-bank that it was a collusive suit as the claim of the alleged tenant was admitted by the borrowers before Civil Court.

Having heard learned counsel for the petitioner, it appears to us that the Civil Court decree, even if it is collusive, does cause legal impediment against implementation of the order passed by the District Magistrate, Ludhiana under Section 14 of the 2002 Act. In such a situation, the appropriate recourse for the petitioner-bank would be either to approach the Civil Court concerned for the recall/modification/clarification of the Civil Court decree or challenge the same before Appellate Forum, to seek a

declaration that the same is not binding on it. The Court concerned to which the petitioner-bank will approach, is directed to decide the matter expeditiously and in accordance with law within a period of three months from the date of its filing.

The writ petition stands disposed of accordingly.

Dasti.

[SURYA KANT]
JUDGE

May 24, 2018
mohinder

[SHEKHER DHAWAN]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No