

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.1679 of 2018

Date of Decision: January 29, 2018

M/s Shiva Jewellers

.....Petitioner

versus

State Bank of India, SME Branch, Sector-17-B, ChandigarhRespondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Ms.Palak Dev, Advocate, for
Mr.Aditya Jain, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner is a partnership firm against whom the respondent-Bank has initiated action under Sections 13(2)& 13(4) of the Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002. The District Magistrate, Panchkula thereafter passed the order dated 28.11.2017/07.12.2017 under Section 14 of the SARFAESI Act, 2002 for taking physical possession of the secured assets comprising residential house No.951, Sector-8, Panchkula where family of the partners of the petitioner-firm resides. The case of the petitioner-firm is that its insurance claim deserves to be accepted for which the matter is required to be taken up by the respondent-bank with the Insurance Company. The insurance claim is based upon the alleged robbery which took place in the jewellery shop of the petitioner-firm. The partners of the petitioner-firm and other family members are concededly facing criminal trial on the allegation of cheating and fraud for making a false insurance claim. In such like fact-situation where disputed question of facts are involved, we are of the view that no direction can be issued by this Court to

the question whether the petitioner-firm is entitled to such claim or not?. We thus relegate the petitioner to approach the Debts Recovery Tribunal for resolving these disputed issues. However, having regard to the plea taken before us that the residential house No.951, Sector-8, Panchkula is in possession of family of the partners of petitioner-firm and there is no other residential house with the family, it is directed that *status-quo* re: possession of the house be maintained for a period of one month so as to enable the petitioner to approach the Debts Recovery Tribunal meanwhile. The Debts Recovery Tribunal shall decide such claim without being prejudiced by the observations made by this Court.

With liberty aforementioned, the writ petition stands disposed of.

(SURYA KANT)
JUDGE

January 29, 2018
mohinder

(SHEKHER DHAWAN)
JUDGE

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