

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.2089 of 2018.

Date of Decision: February 01, 2018

M/s Cholamandlam Investment and Finance LimitedPetitioner

versus

District Magistrate-cum-Deputy Commissioner, LudhianaRespondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Ms.Puja Chopra, Advocate, for the petitioner.

-.-

Surya Kant, J. (Oral)

The petitioner is a non-banking financial company which falls within the definition of 'Financial Institution' within the meaning of Section 2(1)(m) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner has advanced loan facilities of Rs.2,50,00,000/- to the borrowers Mr.Karan Aggarwal son of Rajinder Aggarwal and his parents. Their accounts were declared as NPA on 05.10.2015 and since then the petitioner is struggling hard to take physical possession of the secured assets of the borrowers comprising a residential house. The petitioner filed a petition under Section 14 of the 2002 Act upon which the Additional District Magistrate, Ludhiana passed an order dated 15.06.2017 to take physical possession of the secured assets but despite that, the physical possession was not handed-over as meanwhile one Ravinder Singh, claiming himself to be a tenant pursuant to the alleged tenancy created in April, 2015, filed a Civil Suit and got ad-interim injunction in respect of first floor of the house. The said Ravinder Singh has claimed that a rent note has also been executed on 23.05.2017 between one

of the landlord and him, obviously after the action under Section 13(4) and 14 of the 2002 Act has been taken.

Be that as it may, due to this legal impediment the authorities/ District Administration are unable to hand-over physical possession of the property till the injunction order is vacated by the Civil Court.

Though the petitioner may be right in contending that the suit is apparently collusive and the Civil Court has entertained the suit without going into the question whether it has got jurisdiction or not, we are of the considered view that such questions cannot be finally decided in these proceedings as the alleged tenant and borrowers are not party respondents. We thus dispose of this writ petition with liberty to the petitioner to move an application before the Civil Court at Ludhiana for vacation of the injunction order. If such an application is filed within one week, the Civil Court is directed to decide the same within two weeks thereafter, if need be, by taking the application on day to day basis. The petitioner shall also be at liberty to file application under Order 7 Rule 11 CPC and such an application shall also be decided within two weeks of its filing.

Ordered accordingly.

Dasti.

(SURYA KANT)
JUDGE

February 01, 2018
mohinder

(SHEKHER DHAWAN)
JUDGE

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