

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26291-2017

Date of Decision: April 04, 2018

Union Bank of India and another

.....Petitioners

Versus

State of Punjab 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.Anandeshwar Gautam and Mr.Gaurav Goel, Advocates
for the petitioners.

Mr.Rajesh Bhardwaj, Sr.DAG, Punjab.
Mr.Anand Chhibbar, Sr.Advocate with
Mr.Rajat Khanna, Advocate for respondent No.11.

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SURYA KANT, J.

Reply filed by respondent No.11 is taken on record.

[2] Union Bank of India is aggrieved by the order dated 01.06.2017 passed by Additional District Magistrate, SAS Nagar (Mohali) in purported exercise of powers under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the 2002 Act') whereby it has refused to give physical possession of the entire secured asset on the premise that out of the

total area measuring 9435 sq.yards, an area measuring 2614 sq.feet is on

lease with respondent No.11-Company, namely, the area which has been mortgaged with tenancy rights to the petitioner-Bank.

[3] The petitioner-Bank heavily relies upon Clauses 4 and 5 of the *inter se* agreement dated 01.01.2015 (Annexure P-8) read with Section 17(4A) of the 2002 Act as well as the decision of this Court in CWP-COM No.39 of 2017, dated 16.03.2017 (**NEC Packaging Limited** vs **Punjab National Bank and others**) (Annexure P-9).

[4] Learned State counsel as well as counsel for respondent No.11 on the other hand defend the impugned order as according to them physical possession of the aforesaid area has rightly been declined to the Bank.

[5] During the course of hearing, learned State counsel as well as counsel for respondent No.11 fairly agree that since some of the documents relied upon by the parties have not been discussed by the Additional Deputy Commissioner in the impugned order, they have no objection if the said order is set aside with a direction to pass a fresh order under Section 14 of the 2002 Act in accordance with law.

[6] In view of the above-stated stand, it is not necessary for us to deal with the rival contentions. Impugned order dated 01.06.2017 is set aside and instead of Additional Deputy Commissioner, the Deputy Commissioner, SAS Nagar (Mohali) is directed to pass a fresh order, in accordance with law and after referring to the relevant documents including the agreement dated 01.01.2015 as well as relevant provisions of law and after hearing the representatives of the parties, within a period of one month from the date of receipt of a certified copy of this order.

relevant documents before the Deputy Commissioner, SAS Nagar (Mohali).

[8] Disposed of.

(SURYA KANT)
JUDGE

April 04, 2018
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(SHEKHER DHAWAN)
JUDGE

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