

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.27607 of 2017.

Date of Decision: January 19, 2018

Capital First Limited

.....Petitioner

versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Mr.Harsh Chopra, Advocate, for the petitioner.

-. -

Surya Kant, J. (Oral)

The petitioner-Company is a 'Financial Institution' within the meaning of provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It declared the loan account of borrower-respondent Nos.3 to 8 as NPA and initiated action against them under Section 13 of the 2002 Act. The petitioner applied to the District Magistrate, Gurugram under Section 14 of the 2002 Act to provide police assistance to take physical possession of the secured assets. An order to this effect was passed on 16.05. 2017. Thereafter, respondent Nos.9 to 11 have applied to the District Magistrate for recalling of the order dated 16.05.2017 on the plea that they are tenants in occupation of the subject premises and thus physical possession cannot be delivered to the petitioner-secured creditor. The District Magistrate, however, is sitting tight over the said application despite the petitioner's reply alongwith an objection that the application is not maintainable, for after passing the order, the District Magistrate, Gurugram has become functus officio.

Having heard learned counsel for the petitioner, we deem it

appropriate to dispose of this writ petition with a direction to the District Magistrate, Gurugram to decide the application-cum-objections filed by respondent Nos.9 to 11 positively within a period of one month from the date of receiving a certified copy of this order. The District Magistrate, Gurugram will also decide the objection taken by the petitioner that the application filed by respondent Nos.9 to 11 is not maintainable since the District Magistrate has now become fuctus officio. The petitioner shall also be at liberty to approach the District Magistrate for the limited purpose of change of Receiver and seek appointment of a Government Officer as Receiver who can take more effective steps in accordance with law.

Dasti.

(SURYA KANT)
JUDGE

January 19, 2018
mohinder

(SHEKHER DHAWAN)
JUDGE

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

CM No.559 of 2018 in
CWP No.27607 of 2017

- - -

Capital First Limited versus The State of Haryana and others

Present : Mr.Harsh Chopra, Advocate,
for the applicant-petitioner.

* * *

For the reasons mentioned in the application, the same is
allowed subject to all just exceptions and copy of the resolution dated
02.09.2016 (P-10) is taken on record.

CM stands disposed of.

(SURYA KANT)
JUDGE

January 19, 2018
mohinder

(SHEKHER DHAWAN)
JUDGE