HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

CWP No.27615 of 2017
Date of Decision: 14.02.2018

****

M/s Luminary Professional Services P Ltd. ...Petitioner

VS.

Chief Secretary, Govt. of Punjab & Ors. ... Respondents

****

Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Shekher Dhawan

****

Present: Mr. KK Goel, Advocate for the petitioner

Mr. Sahil Sharma, DAG Punjab

****

SURYA KANT J. (Oral)

(1) The petitioner-Company is a Debt Recovery Enforcement Agent of the Public Sector Banks/Financial Institutions and has been authorized by Allahabad Bank and Indian Overseas Bank, Ludhiana Branches to assist them in recovery of due amounts. The case of the petitioner is that the above-named two Banks had advanced loans to the borrowers, namely, (i) Khanna Exim Pvt.Ltd.; (ii) Divine Impex; (iii) Ispat Industries; [*Allahabad Bank*] (iv) Saksham Steels; and (v) JGN Flour Mills [*Indian Overseas Bank*]. It is averred that despite orders having been passed by the District Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for taking over physical possession of the 'secured assets' of the above-named borrowers, no action was being taken by Tehsildar, Ludhiana, (East), Tehsildar, Ludhiana, (Central) and the police authorities to take over and entrust the physical possession of 'secured assets' to the lender Banks.

(2) Learned State counsel, on instructions from the officials who are present in Court, states that so far as the advancement of loan by Allahabad Bank to Divine Impex is concerned, the physical possession of secured assets has been handed over to the lender-Bank on 19.01.2018. Regarding advancement of loan to Ispat Industries, it is stated that physical possession of the secured assets has been handed over to the lender-Bank on 06.02.2018.

(3) As regard to loan advanced by Indian Overseas Bank to Saksham Steel, it is stated that the borrowers have paid the entire loan and thus the account has been settled. An intimation to this effect has been received by the authorities from the Bank.

(4) So far as the loan account of Khanna Exim is concerned, learned State counsel informs that there is an injunction order dated 16.09.2016 passed by the Civil Court, Ludhiana and due to that legal impediment, the physical possession could not be delivered to the lender-Bank.

(5) Similarly, the physical possession of secured assets could not be delivered to the lender-Bank in the loan case of JGN Flour Mills given by Indian Overseas Bank due to injunction order granted by the Civil Court, Ludhiana on 01.09.2016.

(6) In this view of the matter, we grant liberty to the petitioner and/or the lender-Banks i.e. Allahabad Bank and Indian Overseas Bank to become parties in the respective civil suits and move applications for - (i) impleadment as party defendant; (ii) vacation of *ad interim* injunction granted by the Civil Courts; and (iii) for rejection of plaint under Order VII Rule XI CPC. If any such application(s) is/are filed, we direct the Civil

Court, Ludhiana before whom the above-mentioned Civil Suits are pending, to decide those applications after hearing the parties concerned positively within *one month,* and if need be, the applications will be heard on day to day basis. Since possession has not been delivered due to injunction orders passed in both the Civil Suits, it is directed that in case the Civil Court(s) vacate the injunction order(s) and there remains no other legal impediment, the respondent-authorities shall ensure that the physical possession of secured assets in those two cases as well are handed over to the lender-Banks or its authorized agent within *two weeks*.

(7) Disposed of.

(Surya Kant)
Judge

14.02.2018
vishal shonkar

(Shekher Dhawan)
Judge

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