

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.29670 of 2017.

Date of Decision: January 16, 2018

Allahabad Bank

.....Petitioner

versus

District Magistrate, Gurugram and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Ms.Harpreet Kaur, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The grievance of the petitioner-Allahabad Bank in the instant writ petition is that no action is being taken by the Receiver(s) appointed by the District Magistrate, Gurugram vide his order dated 27.06.2017 passed in exercise of his powers under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Consequently none of the secured assets of the borrowers/guarantors, namely, respondent Nos.2 to 11 have been taken into possession or handed-over to the petitioner-bank for the purpose of recovery of huge loan amount of more than Rs.44 crores.

As per the averments made in the writ petition, the borrowers availed the loan facilities from the petitioner-bank but having failed to pay the due installments and as a result of numerous defaults, their accounts were classified as NPA as per the Reserve Bank of India guidelines. A notice under Section 13(2) the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was issued asking the borrowers to hand-over physical possession of the secured assets.

As the borrowers did not hand-over the possession of secured assets, the

petitioner-bank applied to the District Magistrate, Gurugram under Section 14 of the 2002 Act requesting him to take possession of the secured assets and handover the same to the petitioner-bank for selling the same.

The District Magistrate, Gurugram accepted the petitioner's application and passed the order dated 27.06.2017 (P-2) but for the reasons best known to him, he did not appoint any Executive Magistrate or a Senior Officer of the District Administration as Receiver to take physical possession of the mortgaged/secured assets, and instead appointed two learned members of the District Court Bar at Gurugram, namely, respondent Nos.12 & 13 as Receivers to take over physical possession of the secured assets. The writ petition contains a long narration of facts to suggest that the Receiver(s) appointed by the District Magistrate have not taken physical possession of the secured assets apparently for the reason that the State machinery is not acting at their behest.

Though the petitioner-Bank has attributed 'motive' as well to the Court Receiver(s) but without going into such allegations, we are satisfied that the District Magistrate, Gurugram is required to immediately modify his order dated 27.06.2017 and appoint some Senior Government Officer of the District Administration as Receiver with a further direction to provide police assistance to take physical possession of the mortgaged/secured assets. The writ petition is accordingly disposed of with liberty to the petitioner-bank to immediately apply to the District Magistrate, Gurugram for modification of the order dated 27.06.2017 only to the limited extent of substituting the Receiver(s) and appoint a Government Officer of the District Administration as the Receiver. The District Magistrate, Gurugram shall also provide police assistance to the

Receiver at all such places wherever the secured assets are located. The District Magistrate shall pass appropriate order within one week from the date of making application by the petitioner. The newly appointed Receiver shall then act in accordance with law and submit a compliance report to this Court within one month from the date of appointment of the Receiver. If the borrowers have any grievance against the above mentioned limited modification in the order passed by District Magistrate, liberty is granted to them to approach this Court.

Dasti.

(SURYA KANT)
JUDGE

January 16, 2018
mohinder

(SHEKHER DHAWAN)
JUDGE

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