

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.2821 of 2018.

Date of Decision: February 08, 2018

Kotak Mahindra Bank Limited

.....Petitioner

versus

The District Magistrate, Ludhiana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Mr.Manish Jain, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner is a Banking-Company and is a 'Financial Institution' within the meaning of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The account of the respondent-borrowers having been classified as NPA, measures under Section 13 of the 2002 Act were taken against them, followed by an order passed by the District Magistrate, Ludhiana on 16.03.2017 (P-1) for taking over physical possession of the secured assets. However, the said order could not be given effect as meanwhile, one Ranjit Rai claiming himself to be a tenant in the secured asset comprising a residential house, has got ad-interim injunction order from the Civil Court at Ludhiana on 20.09.2017.

The grievance of the petitioner-bank is that the above-stated civil suit is collusive in nature and has been filed to defeat the provisions of 2002 Act, regardless of the fact that the Civil Court has no jurisdiction to entertain the matter.

We have heard learned counsel for the petitioner.

Though there may be some merit in the contention, nevertheless

view of the matter, we dispose of this writ petition with liberty to the petitioner-bank to move:- (i) an application for its impleadment in the pending civil suit; (ii) an application for vacation of ad-interim injunction and (iii) an application under Order 7 Rule 11 CPC for rejection of the plaint. The bank shall be at liberty to explain that there was no tenancy in existence when the residential house was mortgaged/hypothecated and that the civil suit is collusive in nature and is meant to defeat the bank' legitimate rights under the 2002 Act. The Civil Court at Ludhiana is directed to decide those applications within a period of three weeks from the date of its filing, after hearing the parties and if need be, by taking the applications on day to day basis.

Ordered accordingly.

[SURYA KANT]
JUDGE

February 08, 2018
mohinder

[SHEKHER DHAWAN]
JUDGE

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