

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.4472 of 2018.

Date of Decision: May 07, 2018

Punjab National Bank

.....Petitioner

versus

District Magistrate, Ludhiana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Mr.N.C.Sahni, Advocate, for the petitioner.

Mr.Sahil Sharma, DAG, Punjab.

Mr.Arjun Sheoran, Advocate, for respondent No.3.

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Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Sahil Sharma, Deputy Advocate General, Punjab, accepts notice on behalf of respondent Nos.1 & 2 and Mr.Arjun Sheoran, Advocate accepts notice on behalf of respondent No.3-borrower.

Let two copies of the writ petition be handed-over to learned State counsel and one copy to learned counsel for respondent No.3 during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from the respondents at this stage.

The petitioner is a Nationalized Bank. It is claimed that a sum of over Rs.20.00 crores is recoverable from respondent No.3-borrower whose account was classified as NPA and thereafter measures under

Assets and Enforcement of Security Interest Act, 2002 were taken. The District Magistrate, Ludhiana vide order dated 26.02.2013/06.03.2013 passed under Section 14 of 2002 Act, directed the police authorities to provide police assistance to the petitioner-bank for getting physical possession of the secured assets. The said order, however, could not be given effect as meanwhile the Company Law Board passed an order dated 30.04.2013 directing that *status-quo* in respect of the secured assets be maintained. Thereafter, the petitioner-bank approached this Court by way of CWP No.19072 of 2014 which was disposed of by a Coordinate Bench vide order dated 06.01.2015 in view of the fact that the petitioner-bank had meanwhile moved an application before the Company Law Board seeking similar relief, namely, vacation of stay and for implementation of the order passed by the District Magistrate.

It appears that instead of pursuing the application before the Company Law Board (now substituted by National Company Law Tribunal), the bank withdrew that application and the instant writ petition has again been filed seeking a direction to the District Magistrate, Ludhiana to give effect to the order passed under Section 14 of 2002 Act and hand-over physical possession of the secured assets.

In the light of broadly admitted facts, the respondent-bank has not been called upon to file written-statement at this stage.

We have heard learned counsel for the parties and gone through the record.

It appears that so long as there is an interim order passed by the National Company Law Tribunal (NCLT), there is indeed a legal impediment in giving effect to the order(s) passed by District Magistrate

under Section 14 of 2002 Act. At the same time, the petitioner-bank cannot be left remediless. There is a huge amount of over Rs.20.00 crores which is stated to be recoverable from respondent No.3. In these circumstances, we are of the view that the most appropriate recourse for the petitioner-bank would be to become party to the proceedings pending before NCLT and make out a case for modification or vacation of interim order, subject to the terms and conditions as may be imposed by the said Tribunal. Needless to say that respondent No.3-borrower shall be at liberty to oppose the prayer of the petitioner-bank. The writ petition is accordingly disposed of with liberty to the petitioner-bank to file applications for its impleadment etc. within 2 weeks. NCLT is directed to entertain those applications and pass appropriate order(s) on merits after hearing the parties concerned. The follow-up action shall depend upon the outcome of the said proceedings. The Tribunal is requested to decide the bank's applications as early as possible and preferably within two months from the date of its filing.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

May 07, 2018
mohinder

[SHEKHER DHAWAN]
JUDGE

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