

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.4694 of 2018.

Date of Decision: February 27, 2018

M/s Cholamandlam Investment and Finance CompanyPetitioner

versus

District Magistrate-cum-Deputy Commissioner, Ludhiana & others
.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SHEKHER DHAWAN.**

Present: Ms.Puja Chopra, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner is a non-banking financial company which falls within the definition of 'Financial Institution' under Section 2(1)(m) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner has advanced loan facilities of Rs.3,10,00,000/- to the borrowers, namely, Nigam Uppal son of Gopal Krishan Uppal and his co-applicants and to secure the same the borrowers have mortgaged their properties, i.e., Property Nos.88 and 89, Surya Vihar, Near Rishi Nagar, Village Barewal Awana, Tehsil and District Ludhiana. The borrowers are said to have frequently defaulted in payment of installments, due to which their accounts were classified as NPA on 05.07.2015. The recoverable amount as on 19.09.2016 was Rs.3,84,81,134.25. The petitioner thereafter took measures under Sections 13 & 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner alleges that with a view to defeat its right to take physical possession of the secured assets, the borrowers have got filed two collusive civil suits qua both the properties

on the basis of unregistered rent agreements and without any rent receipts, in which the Civil Courts at Ludhiana have passed orders of *status-quo* re: possession. As a result of the Civil Court orders, the District Administration has expressed its inability to provide assistance for taking physical possession of the secured assets, despite the order passed under Section 14 of 2002 Act.

We have heard learned counsel for the petitioner.

Though there may be some merit in the contention that the civil suits filed by the alleged tenants are in collusion and connivance with the borrowers but such like issues cannot be decided in these writ proceedings, moreso when the borrowers and alleged tenants are not impleaded as party-respondents. The appropriate recourse for the petitioner thus would be to approach the Civil Courts at Ludhiana and move applications (i) for its impleadment; (ii) for vacation of ad-interim stay, and (iii) for rejection of complaints under Order 7 Rule 11 CPC. If such applications are filed, the concerned Civil Courts at Ludhiana before whom the proceedings are pending, are directed to decide the same within one month and if need be, by taking such applications on day to day basis.

The writ petition stands disposed of accordingly.

[SURYA KANT]
JUDGE

February 27, 2018
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[SHEKHER DHAWAN]
JUDGE

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