**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 6208 of 2018 (O&M)
Decided on : 24.09.2018

HDFC Bank Limited ...... Petitioner

Versus

Tehsildar, Khanna and others ...... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr. Sandeep Suri, Advocate
for the petitioner.

Ms.Devki Anand Sullar, AAG, Punjab.

Mr.Vishal Gupta, Advocate
for respondent No.4.

Mr. Atul Gaur, Advocate
for respondent No.5.

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<u>AVNEESH JHINGAN, J.</u>

The present writ petition has been filed seeking directions to Tehsildar, Khanna for implementing order dated 05.01.2016 (Annexure P-1) passed by Deputy Commissioner, Ludhiana under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for brevity, 'the Act') and for providing police help for taking over the physical possession of the mortgaged property.

2. HDFC Bank Limited, Chandigarh is the petitioner. Tehsildar, Khanna; Deputy Commissioner, Ludhiana and M/s JP Ispat through its proprietor Vimal Goyal, Mandi Gobindgarh, District Fatehgarh Sahib were arrayed as respondents No.1 to 3 respectively in the present writ petition. Megha Goyal, the alleged tenant in the mortgaged property and Shakuntla Rani, owner of the mortgaged property were impleaded as respondents No.4

and 5 vide order dated 22.03.2018.

3. Respondent No.3 availed financial assistance from the petitioner-bank. In order to secure the credit facilities, House No.73, measuring 166.6 square yards (5½ Marlas), out of Khewat Khatauni No.2130/3078-3079-3080 Khasra No.3434 (9-13), 3435 (10-10), 3436 (11-5), 3441 (10-15), situated at Guru Harkrishan Nagar, Malerkotla Road, Khanna Kalan, Khanna, Ludhiana, Punjab, was mortgaged with the bank.

4. Respondent No.3 defaulted in repayment of the loan. The account was classified as Non Performing Asset (NPA) on 31.05.2015. The petitioner-bank issued a notice under Section 13(2) of the Act on 05.06.2015. As per the notice, there was an outstanding amount of ₹30,42,439/-. Thereafter, a notice under Section 13(4) of the Act was issued on 27.08.2015. The petitioner moved an application under Section 14 of the Act. Respondent No.2 allowed the application vide order dated 05.01.2016 and directed Tehsildar, Khanna to provide police help for taking over physical possession of the secured property.

5. Inspite of the order dated 05.01.2016, the physical possession of the mortgaged property was not handed over to the petitioner. Hence, the present writ petition has been filed.

6. Notice of motion was issued on 14.03.2018. In pursuance of notice of motion, respondent No.1 filed an affidavit along with judgment and decree dated 28.11.2016 passed by Civil Judge (Jr. Division), Khanna. The said suit was filed by Megha Goyal against Shakuntla Rani. The petitioner-bank was not a party to the civil suit. However, before taking a final view, Megha Goyal and Shakuntla Rani were impleaded as respondents in this writ petition. Notice was issued to respondents No.4 and 5 and they are present in Court today.

7. Megha Goyal made a statement in this Court that she was in possession of the mortgaged house and was not aware regarding any loan availed by respondents No.3 and 5. Only now, she has become aware about the litigation. She stated that she is ready to hand over the vacant physical possession of the ground floor on or before 31.10.2018.

8. Shakuntla Rani has also made a statement in this Court that she would hand over the possession of the entire mortgaged house to the bank on or before 31.10.2018.

9. In view of the statements made by respondents No.4 and 5, the writ petition is disposed of with the directions that respondents No.4 and 5 would hand over the physical possession of the mortgaged property to the bank on or before 31.10.2018.

10. However, it is clarified that in case of failure of respondents No.4 and 5 to hand over the physical possession of the mortgaged property to the bank, respondent No.1 shall ensure that police help is provided and the physical possession of the mortgaged property is taken over and immediately handed over to the petitioner.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 24, 2018
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Whether speaking/reasoned: Yes
Whether reportable : Yes