

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.6552 of 2018.

Date of Decision: March 19, 2018

Dr.Sandeep Goyal

.....Petitioner

versus

Small Industries Development Bank of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Mr.Gurinderjit Singh, Advocate, for the petitioner.

Mr.Deepender Singh, Advocate, for the caveator-respondent.

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Surya Kant, J. (Oral)

The petitioner seeks quashing of the notice dated 24.01.2018 (P-2) purportedly issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 asking him to surrender physical possession of the secured asset in which the petitioner was inducted as a tenant after the borrowers had mortgaged the property in favour of the respondent-bank. It may be mentioned that the respondent-Small Industries Development Bank of India (SIDBI) has secured an order under Section 14 of 2002 Act for providing assistance to it by the district administration for taking over physical possession of the mortgaged property.

Learned counsel for the parties have been heard.

The facts are not in dispute.

The premises in question, fully described in para No.2 of the writ petition, was mortgaged by the respondent-borrowers in favour of SIDBI on 28.12.2012 as a security towards the loan facilities availed by them. The petitioner is said to have taken the premises on lease vide lease-

deed dated 06.11.2015. No permission was taken by the borrowers from SIDBI before leasing out the property.

No sooner SIDBI served the borrowers as well as the petitioner with a notice under Section 13 (4) of 2002 Act followed by an order under Section 14 of 2002 Act, the petitioner approached the Debts Recovery Tribunal-III, Chandigarh who vide impugned order dated 06.03.2018 has declined to grant any relief to the petitioner, primarily on the ground that the property was mortgaged in the year 2012 whereas the petitioner claims himself to be tenant from the year 2015.

Having regard to the undisputed fact that the petitioner came to be inducted as a tenant after the property had been mortgaged and no consent of the mortgagee was taken before creating the tenancy, we do not find any ground to interfere with the order passed by Debts Recovery Tribunal-III, Chandigarh.

Dismissed.

[SURYA KANT]
JUDGE

March 19, 2018

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[SHEKHER DHAWAN]
JUDGE

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