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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.7162 of 2018
Date of Decision : March 22, 2018

Central Bank of India .... Petitioner

Versus

State of Punjab and others .... Respondents

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

Present Mr. Gaurav Goel, Advocate,
for the Petitioner.

SHEKHER DHAWAN, J.

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 (for short, "**the 2002 Act**"). 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, Sri Muktsar Sahib on 02.06.2017 (Annexure P/2) for taking over physical possession of the secured assets. However, the said order could not be given effect as meanwhile, one Jugnu Gumber claiming himself to be a tenant in the secured asset comprising a residential house, filed a Civil Suit No.123 of 13.10.2016 titled **Jugnu Gumber Vs. Shardha Rani** and got decree from the Civil Court at Sri Muktsar Sahib on 07.10.2017.

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2. The grievance of the petitioner-bank in the present writ petition 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.

3. We have heard learned counsel for the petitioner.

4. Though there may be some merit in the contention, nevertheless such like issues will have to be raised before the Civil Court only. In this view of the matter, we dispose of this writ petition with liberty to the petitioner-bank to make an application for impleadment in the litigation and to challenge the said decree by taking all the pleas that there there was no tenancy in existence when the residential house was mortgaged/hypothecated and that the decree was collusive in nature and has been obtained in order to defeat the bank's legitimate rights under the 2002 Act. The Civil Court at Sri Muktsar Sahib 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.

5. Ordered accordingly.

(SURYA KANT)
JUDGE

(SHEKHER DHAWAN)
JUDGE

March 22, 2018.
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Whether speaking/reasoned? : Yes
Whether reportable? : Yes