IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.7808 of 2018.
Date of Decision: March 28, 2018

Canara Bank ......Petitioner

versus

State of Punjab and others .....Respondents

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

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Present: Mr.Gaurav Goel, Advocate, for the petitioner.

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**Surya Kant, J**. (Oral)

On oral request made by counsel for the petitioner, respondent Nos.6 & 7 are deleted from the array of respondents.

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. 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, Ludhiana on 04.07.2016 (P-1) for taking over physical possession of the secured assets. However, the said order could not be given effect as meanwhile, the private respondents claiming themselves to be tenants in the mortgaged residential house, got ad-interim injunction order from the Civil Court at Ludhiana on 03.09.2016/03.12.2016.

The grievance of the petitioner-bank 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. The bank is not party to that civil suit.



We have heard learned counsel for the petitioner.

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 move:- (i) an application for its impleadment in the pending civil suit; (ii) an application for vacation of ad-interim injunction and (iii) an application under Order 7 Rule 11 CPC for rejection of the plaint. The bank shall be at liberty to explain that there was no tenancy in existence when the residential house was mortgaged/hypothecated and that the civil suit is collusive in nature and is meant to defeat the bank' legitimate rights under the 2002 Act. The Civil Court at Ludhiana 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 hearing the matter on day to day basis. However, while deciding the applications to be moved by the petitioner, the Civil Court shall keep in view the decision dated 22.12.2014 rendered by this Court in CWP No.13068 of 2014 (Punjab & Sind Bank versus The District Magistrate, Mohali and others). In case the Civil Court modify or vacate the ad-interim stay orders, the district administration shall provide assistance to the petitioner-bank to take-over physical possession of the secured assets, within a period of one month from the date of passing such order.

Ordered accordingly.

**[SURYA KANT]**
**JUDGE**

March 28, 2018
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**[SHEKHER DHAWAN]**
**JUDGE**

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