

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

CWP No.8205 of 2018
Date of Decision: 03.04.2018

SIDBI

...Petitioner

VS.

State of Haryana & Ors.

... Respondents

Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Shekher Dhawan

Present: Mr. Gaurav Goel, Advocate for the petitioner

SURYA KANT J. (Oral)

(1) The petitioner is a 'Financial Institution' within the meaning of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Its grievance in the instant writ petition is that though the District Magistrate passed an order under Section 14 of the Act way back on 23.05.2017 but it has not been executed so far due to collusion and connivance with the borrowers. It is alleged that meanwhile respondent No.13 filed a collusive suit for injunction claiming himself to be the tenant in both the mortgaged properties and the Civil Court, Gurgaon has granted *ad interim* injunction vide order dated 18.12.2017 (P14). Though the petitioner has applied for its impleadment in the said civil suit and for vacation of the injunction order but simultaneously, the instant writ petition has been filed pointing out, *inter alia*, that in view of Section 17(4)(a) of the SARFAESI Act read with an express provision barring jurisdiction of the Civil Court, the question of tenancy in the mortgaged property has to be decided by DRT and not by Civil Court. Be that as it may, since the petitioner has already moved necessary applications before the Civil Court, the instant writ petition is disposed of with a direction to the Civil Judge

(Jr.Divn.), Gurgaon before whom Civil Suit No.5087/2017 is pending to take up those applications on day-to-day basis and decide the same in accordance with law not beyond a period of one month. In the event of vacation or modification of the injunction order by the Civil Court, the District Magistrate is directed to take necessary action for implementation of its order passed under Section 14 of the Act within one month.

(2) Disposed of accordingly.

(Surya Kant)
Judge

03.04.2018
vishal shonkar

(Shekher Dhawan)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No