IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

118 **RSA-3909-2018 (O&M)**
Date of Decision : 4.7.2018

Joginder Singh **....Appellant**

vs.

State Bank of India and others **....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Saurabh Kapoor, Advocate
for the appellant.

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AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgments of the Courts below whereby application filed by the respondent under Order 7 Rule 11 CPC was allowed.

Learned counsel has argued that originally notice under Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (for short 'SARFAESI') was given to the appellant in 2010. Thereafter, the account was regularized in 2012. Till June 2014, the appellant continued to pay installments regularly but without any further notice in July 2014 the bank unilaterally started proceeding for recovery under SARFAESI Act. As per him, under the criterion of the RBI, an NPA which is regularized should be declassified under NPA after one year. In the present case, for more than two years the account was regular but the bank wrongly did not declassify the NPA and in these circumstances, the suit was maintainable and the application under Order 7 Rule 11 CPC could not have been allowed.

In my opinion, once the Bank has invoked SARFAESI Act only the remedy provided under that Act can be resorted to. There is no bar on the adjudicatory authority to appreciate the contention raised in the present suit and the mere allegation that SARFAESI Act has been wrongly invoked or wrongly proceeded with would not give remedy to file civil suit. In the circumstances, no ground for interference is made out.

The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

4.7.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No