

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.101

Case No. : CR No. 2124 of 2013

Date of Decision : May 21, 2019

State Bank of India and others Petitioners

vs.

Suresh Kumar and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. Nitin Kumar, Advocate
for the petitioners.

Mr. Rajinder Goyal, Advocate
for respondent no. 1.

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DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 14.08.2012 passed by the Civil Judge (Junior Division), Kaithal (for short – the Trial Court), through which an application preferred by the petitioner under Order 7 Rule 11 CPC seeking rejection of respondent no.1's plaint was dismissed.

On 11.08.1997, one Jaspal Singh entered into an agreement to sell the suit property to respondent no. 1 – Suresh Kumar. At the time of the agreement, since the suit property was lying mortgaged with the petitioner – State Bank of India (for short – the Bank), Jaspal Singh and respondent no. 1 agreed that before the target date, Jaspal Singh shall get the property redeemed from the petitioner Bank. Accordingly, on 01.05.1998, the

property was got redeemed by Jaspal Singh. However, he failed to execute the sale deed in favour of respondent no. 1 leading to filing of a suit by respondent no. 1 for possession by way of specific performance of the aforesaid agreement to sell. Such suit was decreed by the Trial Court on 26.09.2006. Jaspal Singh filed an appeal against the aforesaid judgment and decree which was dismissed by the Appellate Court. Respondent no. 1 sought execution of the aforesaid judgment and decree and in such proceedings, Jaspal Singh executed the sale deed in his favour. However, during the pendency of the aforesaid suit, Jaspal Singh again mortgaged the suit property with the petitioner Bank and since Jaspal Singh became a defaulter, the petitioner Bank issued a public notice under the Security Interest (Enforcement) Rules, 2002 claiming therein the outstanding payment and further declaring that in case, such payment was not made, the petitioner Bank would proceed under the Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (for short – the Act). On coming to know the aforesaid notice, respondent no. 1 filed the instant suit seeking therein to restrain the petitioner Bank from proceeding against him under the Act.

On being put to notice, the petitioner Bank appeared before the Trial Court and filed an application under Order 7 Rule 11 CPC seeking rejection of respondent no. 1's plaint on the ground that as per the provisions of the Act, the Civil Court had no jurisdiction to entertain respondent no.1's suit. The Trial Court dismissed the petitioner's application occasioning the filing of the present petition.

After hearing learned counsel for the parties, it is revealed that

the present petition was filed in the year 2013, in which, after issuance of notice on 22.11.2013, this Court specifically passed an order that during the pendency of the present petition, proceedings before the Trial Court shall continue.

Today, when the matter came up for hearing, learned counsel for the parties inform the Court that in respondent no.1's suit, the Trial Court framed six issues, out of which, one issue was with regard to the maintainability of respondent no.1's suit and another issue was whether the Civil Court had jurisdiction to entertain and try respondent no. 1's suit. On the aforesaid issues, both the parties have led their evidence and the matter is now fixed before the Trial Court on 02.07.2019 for final arguments.

In view of the above facts, the present petition is disposed of with a direction to the Trial Court to hear the arguments of both the parties on the next date fixed before it and then finally adjudicate upon respondent no.1's suit within a fortnight thereafter.

It is clarified that the disposal of the present petition would not influence the Trial Court in any manner and that its decision would be based on the evidence led by both the parties on all the issues framed by it including the aforesaid two issues.

(DEEPAK SIBAL)
JUDGE

May 21, 2019
monika

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.