

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

**108**

**CR No.360 of 2019**

**Date of Decision:5.12.2019**

**ALLAHABAD BANK AND OTHERS**

**.....Petitioners**

**Versus**

**ROOP LAL AND OTHERS**

**.....Respondents**

**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr.M.S.Bajwa, Advocate  
for the petitioners.

Mr.Aalok Jagga, Advocate  
for the respondents.

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**RAJ MOHAN SINGH, J.(Oral)**

This revision petition has arisen out of the order dated 26.11.2018 passed by the Additional District Judge, Gurdaspur vide which the order dated 25.5.2018 passed by the Civil Judge (Jr.Divn.), Gurdaspur was reversed.

Trial Court dismissed the application filed by the plaintiffs under Order 39 Rules 1 and 2 CPC on the ground that no prima facie case is made out for grant of temporary injunction as jurisdiction of Civil Court is barred under Section 34 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short 'SARFAESI Act'). Lower Appellate Court, on the basis of guidelines of

Reserve Bank of India dated 17.3.2016, reversed the order of the trial Court on the ground that under the aforesaid guidelines, a frame work for revival and rehabilitation of Micro, Small and Medium Enterprises having loan limits upto 25 crores is provided and for that the case should have been sent to the Committee before initiating any appropriate action under the SARFAESI Act. Whether the company of the plaintiffs falls under Micro, Small and Medium Enterprises or not would be a question of fact to be debated before the trial Court at the relevant stage with reference to the evidence to be led by the parties. For grant of temporary injunction, three principles are required to be appreciated i.e. existence of prima facie case, balance of convenience and irreparable loss to be caused in the event of non grant of temporary injunction.

It is also relevant to note that the Court having no jurisdiction can pass interim order till such time issue of jurisdiction is decided by the Court on merits. Reference can be made to **Basakhi Ram vs. Suresh Kumar, 1998 (3) RCR (Civil), 175** and **Tayabbhai M Bagasarwalla vs. Hind Rubber Industries Pvt.Ltd., 1997 (2) RCR, 473 (SC)**. At this stage no consideration on merits can be made by any Court except to consider the case on the basis of prima facie consideration. Any observation made herein above shall not be construed

to be the final opinion on the merits of the case.

For the reasons recorded herein above, I see no justification to interfere in this revision petition. Accordingly, the same is dismissed.

**December 05, 2019**  
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**(RAJ MOHAN SINGH)**  
**JUDGE**

**Whether reasoned/speaking**  
**Whether reportable**

**Yes/No**  
**Yes/No**