

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

Sr. No.111

CR-1627-2019

Date of decision: 08.03.2019

M/s. HDB Financial Services Limited

....Petitioner

versus

Avtarjit Kaur and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vipul Dharmani, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Article 227 of the Constitution of India for issuance of a direction to the Civil Judge (Senior Division), Ludhiana (for short – the Trial Court) to expeditiously dispose of the application filed by the petitioner under Order 7 Rule 11 CPC read with Sections 34/35 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – the Act).

The facts, in brief, are that respondent No.2 sought and got from the petitioner a loan of ₹1,41,25,878/-. Such loan was disbursed on 31.07.2015 upon terms and conditions which included the mode and manner of repayment of the loan. Before the loan was disbursed, respondent No.2 mortgaged a property with the petitioner. Thereafter, respondent No.2 committed default in repayment of the loan taken by him resulting in

initiation of proceedings by the petitioner under the Act. In pursuance of such proceedings, the petitioner issued a notice to respondent No.2 under Section 34 of the Act as also filed an application under Section 14 of the Act before the Additional District Magistrate, Ludhiana to take possession of the mortgaged property. While the proceedings under the Act were pending, respondent No.1 filed a civil suit seeking injunction against her dispossession from the mortgaged property. Interim injunction was granted by the Trial Court in favour of respondent No.1. Since the petitioner was not a party in the respondent No.1's suit, it filed a petition before this Court being **CWP No.14829 of 2018 – HDB Financial Services Limited vs. Additional District Magistrate, Ludhiana and others**, which was disposed of by a Division Bench of this Court on 01.06.2018 by passing the following order:-

“The order dated 23.03.2018 passed in favour of the petitioner-financial institution under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has not been given effect to due to an injunction order passed by the Civil Court in favour of the alleged tenant, who claims oral tenancy.

In this view of the matter, the present petition is disposed of with liberty to the petitioner to become a party to the proceedings before the Civil Court and seek appropriate reliefs. The applications to be moved by the petitioner before the Civil Court are directed to be decided at the earliest but not later than two months.”

A perusal of the afore-quoted order reveals that this Court had directed that if any application/(s) are moved by the petitioner before the Trial Court, the same would be decided at the earliest but not later than two

months.

In view of the liberty granted by this Court through the afore-quoted order, the petitioner filed an application before the Trial Court seeking its impleadment in the afore-referred civil proceedings launched by respondent No.1. Such application was allowed on 19.07.2018. Thereafter, on 08.08.2018, the petitioner filed an application under Order 7 Rule 11 CPC read with Sections 34/35 of the Act seeking rejection of respondent No.1's plaint the early disposal of which is sought through the present petition.

Learned counsel for the petitioner has been heard.

A perusal of the afore-quoted order dated 01.06.2018 passed by a Division Bench of this Court reveals that a direction had been issued by this Court to the Trial Court to dispose of the applications to be filed by the petitioner within two months. After the filing of the application by the petitioner under Order 7 Rule 11 CPC read with Sections 34/35 of the Act, the interim orders passed by the Trial Court reveal that several adjournments have been granted therein some of which are found to be unnecessary.

In line with the directions issued by this Court in the afore-quoted order dated 01.06.2018 as also for the reason that this Court has found that the petitioner's application, on several occasions, has been adjourned unnecessarily, it is directed that the application of the petitioner filed by it under Order 7 Rule 11 CPC read with under Section 34/35 of the Act shall be disposed of by the Trial Court expeditiously but not later than one month from the date of receipt of a certified copy of this order.

The present petition is disposed of in the above terms.

If the respondents are aggrieved by passing of the present order they are at liberty to approach this Court by filing of an appropriate application.

(DEEPAK SIBAL)
JUDGE

March 08, 2019
Jyoti 1

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No