IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

238

CWP No.11276 of 2019
Date of Decision : 16.10.2019

IDFC First Bank Limited
.....Petitioner

Versus

State of Punjab and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Naveen Sharma, Advocate for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab.

Mr. Vikas Bali and Mr. Kamal Sharma, Advocate for respondents No.8 to 10.

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RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the order dated 20.12.2018 passed by the Additional District Magistrate, Ludhiana by which he has stayed his own order dated 20.07.2018, having been passed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act').

Shorn off unnecessary details, the petitioner had advanced loan to the private respondents who could not maintain the financial discipline inasmuch as, the payment schedule, therefore, the account of the respondent was declared Non Performing Asset (NPA) on 30.07.2017 and the proceedings in terms of Section 13(2) and 13(4) of the Act were initiated for the purpose of taking possession of the mortgaged property for non-payment of outstanding amount of ₹3,63,23,082.86/-. The proceedings under Section 13 was followed by an application under Section 14 of the Act, filed before the District Magistrate, Ludhiana for the purpose of seeking assistance in taking possession of the mortgaged property. The application filed under Section 14 was allowed on 15.10.2018. Thereafter, proceedings were initiated through the Tehsildar, Ludhiana (West) for taking the physical possession of the mortgaged property. While these proceedings were being carried out by the Administrative Authorities, the respondent No.6 filed an application before the District Magistrate, Ludhiana for review of his own order, inter alia, on the ground that Amrit Lal Aggarwal who was one of the co-borrowers had expired even before the issuance of notice under Section 13 (2) and 13(4). In the said application the Additional District Magistrate, Ludhiana has passed the impugned order dated 20.12.2018 directing the Tehsildar, Ludhiana (West) not to take possession of the mortgaged property.

Counsel for the petitioner has submitted that the District Magistrate much less the Additional District Magistrate, Ludhiana has no jurisdiction to pass any kind of order which tantamount to review, recall or modifying his own order. In this regard, he has relied upon a decision of this Court in ***CWP No.16366 of 2016 titled Asset Reconstruction Company (India) Ltd. Vs. State of Haryana and Others decided on 18.08.2017.***

On the other hand, Counsel for the respondents has relied upon a decision of this Court in the case of ***CWP No.14937 of 2018 titled M/s HDB Financial Services Ltd. Vs. Additional Deputy Commissioner, Khanna and others, decided on 15.10.2018*** which was also relied upon by the Additional District Magistrate, Ludhiana while passing the impugned order.

We have heard both the counsel for the parties and after perusal of record, are of the considered opinion that after the passing of impugned order under Section 14, the District Magistrate does not have any jurisdiction to either review, recall or modify his own order much less to grant an injunction. In this regard, reference could be had to the decision of this Court in ***Asset Reconstruction Company (India) Ltd. (Supra)***. As far as, the decision in the case of ***M/s HDB Financial Services Ltd. (Supra)*** is concerned, which has been relied upon by the respondent, in that case the order passed under Section 14 was directly challenged before this Court, inter alia, on the ground that notices under Section 13(2) and 13(4) were not issued to the legal heirs of one of the borrowers and the said petition was withdrawn.

After considering the rival contentions, we are of the considered opinion that there is a total fallacy on the part of the Additional District Magistrate, Ludhiana in passing of the impugned order because he does not enjoy the jurisdiction of either review, recall, modifying or setting aside his own order. Thus, the present petition is hereby allowed and the impugned order dated 20.12.2018 is hereby set aside. However, while parting with this order, we may add that the private respondents may, if so advised, challenge the order passed by the District Magistrate, Ludhiana under Section 14 before an appropriate Court, in accordance with law.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

16.10.2019
Kothiyal

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