

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 35547 of 2019 (O&M)

Date of Decision: 10.12.2019

ANU KHERA AND OTHERS

..... *Petitioners*

V/s.

H.D.F.C BANK LIMITED AND ANOTHER

.....*Respondents*

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
 HON'BLE MRS. JUSTICE ALKA SARIN.

Present: Mr. P.P.S. Duggal, Advocate,
 for the petitioners.

RAKESH KUMAR JAIN, J. (Oral)

Counsel for the petitioners, *inter alia*, contends that the petitioners are neither borrower(s) nor guarantor(s) of the loan which has allegedly been availed by M/s Sarthak Steel, owned by Mohit Khera, son of petitioner No. 2, who has since expired. It is submitted that a fraud has been played in the record of the respondent-Bank by the borrower by putting forged signatures which has been challenged by petitioners No. 1 to 3 in a Civil Suit No. 3514 of 2018 which is pending for 07.01.2020. It is submitted that however, in the said suit the defendants therein have already filed an application under Order 7 Rule 11 of the CPC which has not yet been decided. The petitioners have approached this Court after the order passed by the District Magistrate, Faridabad on an application filed by the respondent-Bank under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act"). It is submitted that the respondent-Bank is adamant to take possession of the

only residential house of the petitioners qua which the civil suit has already been filed alongwith an application for injunction.

During the course of hearing, counsel for the petitioners has categorically admitted that so far no application for injunction has been filed after the order has been passed by the District Magistrate, Faridabad. In such circumstances, we are of the considered opinion that the remedy lies with the petitioners to file an application for seeking injunction even against the order of the District Magistrate because the petitioners have alleged that they are neither the borrower(s) nor guarantor(s) and are strangers to the loan agreement, availed by the son of petitioner No. 2 from the respondent-Bank.

In view of the peculiar facts and circumstances, while disposing of this petition, we allow the petitioners to file an appropriate application in accordance with law for seeking injunction against the order of the District Magistrate, Faridabad.

If any such application is filed before the Civil Court, who is seized of the Civil Suit No. 3514 of 2018, which is stated to be fixed for 07.01.2020, then the same shall be decided by the Civil Court forthwith after issuing notice to the defendants therein.

With these observations, present petition is hereby disposed of.

[RAKESH KUMAR JAIN]
JUDGE

December 10, 2019

Ess Kay

[ALKA SARIN]
JUDGE

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No