

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

RSA-5763-2018 (O&M)
Date of decision : 27.01.2020

M/s Kiran Mill Board Industry and others

...Appellants

Versus

Vijay Bank and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arun Sharma, Advocate for
Mr. S.S. Dinarpur, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM No.15830-C of 2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 7 days in filing the present appeal is condoned.

Application is allowed.

Main case

Plaintiffs-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below dismissing the suit filed by them for declaration that the amount recovered under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereinafter to be referred as “the SARFAESI Act”), is illegal.

The plaintiffs had set up an industry under the name of M/s Kiran Mill Board. They borrowed a sum of ₹5,00,000/- as loan whereas another sum of ₹5,00,000/- as cash credit from the respondent-bank while mortgaging land measuring 14 kanals 16 marlas.

Both the Courts have found that since the plaintiffs committed default in payment, therefore, the proceedings under the SARFAESI Act were initiated and the property in question has been sold.

Both the Courts have also examined the fact that since the land in question, although was being used for agricultural purposes initially, but was being used for running industry on which factory building had been constructed and, therefore, does not fall in the category of agricultural land.

Both the Courts have also held that the suit filed by the plaintiffs is barred under Section 34 of the SARFAESI Act.

Learned counsel for the appellants, although, made sincere attempt, however, failed to draw attention of the Court to misreading or non-reading of the evidence or substantive error of law.

In view of the above, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

27.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No