

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8742 of 2016 (O&M)

Date of Decision: 09.09.2022

Oriental Bank of Commerce, Kapurthala

... Petitioner(s)

Versus

M/s Amarjit Singh Bal and Company and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Raj Kumar, Advocate
for the petitioner(s).

Mr. Namit Gautam, Advocate
for the respondent No.1.

Anil Kshetarpal, J.

1. The application under Order VII Rule 11 of the Code of Civil Procedure, 1908, with regard to the maintainability of the civil suit before the Civil Court has been rejected by the trial Court.

2. Admittedly, the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereinafter referred to as “the 2002 Act”) are pending. The plaintiff-respondent claims to be the lessee of the property which is the subject matter of the mortgage. In view of the amendment made by Act No. 44 of 2016, Sub-Section 4-A has been added in Section 17 of the 2002 Act. Through this provision, any person claiming any tenancy of lease hold rights upon the secured asset is entitled to file an application before the Debt Recovery Tribunal.

Court if the matter can be adjudicated under the 2002 Act. Once there is a specific amendment enabling the persons claiming tenancy or lease hold rights to file a petition before the Debt Recovery Tribunal, the Civil Court has erred in rejecting the application. Even the period of lease has already expired.

4. Consequently, the present revision petition is allowed and the order dated 16.09.2016 is set aside. The Civil Court is directed to return the plaint to the plaintiff with liberty to file a petition before the Debt Recovery Tribunal.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

September 09, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No