

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

CR-2340-2020 (O&M)

Date of decision: 11.11.2022

Punjab National Bank

....Petitioner

Versus

Roop Lal Aggarwal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arvind Rajotia, Advocate for the petitioner

Mr. Shailendra Jain, Sr. Advocate with
Mr. Prateek Aggarwal, Advocate and
Ms. Ashmita Sandhu, Advocate for respondent no.1 and 2

ANIL KSHETARPAL, J (Oral)

An application filed by the petitioner-Bank under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') to reject the plaint in view of the bar to the jurisdiction of the civil court under Section 34 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act, 2002') has been dismissed. Challenging the correctness of the said order, the present revision petition has been filed.

At the time of arguments, the learned counsel representing the respondents (plaintiff) submits that the plaintiff has now given complete particulars of the occurrence of fraud. He submits that now the application under Order VII Rule 11 CPC is required to be redetermined in view of the amended plaint. Learned counsel representing the petitioner submits that he has instructions.

There are various judgments passed by the courts taking a view that the suit filed before the civil court challenging directly or indirectly the action taken by the secured creditor under the SARFAESI Act, 2002 shall not be maintainable in a civil court. However, there is a small window which enables the civil court to decide the matter if the fraud has been pleaded and its complete particulars, as required under Order VI Rule 4 CPC, have been incorporated in the pleadings. Learned senior counsel representing the respondents submits that in view of the amended plaint, the complete particulars have already been asserted.

Keeping in view the aforesaid facts, the impugned order dated 01.09.2020 is set aside. The petition stands allowed. The trial court is requested to decide the application afresh after taking into account the amended plaint.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

11.11.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE