

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

CWP No.18243 of 2022
Date of Decision: 05.09.2022

RAJWINDER KAUR

.....Petitioner

V/s.

STATE BANK OF INDIA AND OTHERS

.....Respondents

CORAM: **HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO.**
HON'BLE MR. JUSTICE HARMINDER SINGH MADAN.

Present: Mr. Deepak Aggarwal, Advocate,
for the petitioner.

M.S. RAMACHANDRA RAO, J. (Oral)

The petitioner claims to be a tenant of respondent No.2 in the subject property which is admittedly given as security for a loan borrowed by respondent No.2 from respondent No.1.

The petitioner relies on the agreement dt.23.08.2017 (Annexure P-1) to assert that she is a tenant of respondent No.2, and that an amount of ₹6 Lakhs advance has been paid to respondent No.2.

The petitioner seeks protection from eviction pursuant to the order dt.16.10.2019 passed by respondent No.3 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for delivery of physical possession of the secured asset by respondent No.1.

Prima facie, since the agreement dt.23.08.2017 (Annexure P-1) being unregistered, it is inadmissible in evidence to prove the tenancy in respect of the secured asset. As per the decision rendered by the Division Bench of this Court in the case of **Allahabad Bank Vs. District Magistrate,**

CWP No.18243 of 2022

Ludhiana and others passed in CM No. 3178-CWP of 2021 in CWP No.4916 of 2020, a person in occupation of the secured asset is entitled to be given two weeks' time to vacate the same even if he is a third party such as a tenant.

Since any right of the tenant cannot be higher than the right of the secured creditor, therefore, respondents No.1 and 3 are permitted to take the physical possession of the secured asset from the petitioner pursuant to the order dt.16.10.2019 by giving the petitioner 14 days' clear notice of such dispossession.

The Writ Petition is disposed of in the aforesaid terms.

(M.S. RAMACHANDRA RAO)
JUDGE

(HARMINDER SINGH MADAN)
JUDGE

September 5, 2022
Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>