

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

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2023:PHHC:163838

CR-400-2017

Date of decision: 20.12.2023

PUNJAB NATIONAL BANK

..Petitioner

Versus

JAGDISH KAUR

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankit Kaushal, Advocate
for the petitioner.

Mr. Sandeep Suri, Advocate
Mr. Raghav Garg, Advocate
and Mr. Karan Gaba, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. Through this revision petition, the 'Punjab National Bank' and 'another' challenge the correctness of the order passed by the trial Court on 06.09.2016 while dismissing application filed under Order VII Rule 11 read with Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the '2002 Act'), to reject the plaint.

2. Pending this revision petition, the original plaintiff, late Smt. Jagdish Kaur has died. She claims that she is neither the borrower nor the guarantor nor the mortgagee of the property and therefore, her property cannot be taken over by the Bank in exercise of powers under the 2002 Act. Hence, she prayed for grant of decree of permanent injunction.

3. On the other hand, it is the case of the Bank that the children of late Smt. Jagdish Kaur had borrowed the amount from the Bank and a decree for recovery of the amount has already been passed against the Children of late Smt. Jagdish Kaur.

4. The bank issued notice under Section 13 of the 2002 Act, however, subsequently, no notice under Section 13(4) of the 2002 Act has been issued to the plaintiff.

5. The learned counsel representing the petitioner-Bank submits that the Bank will proceed against the borrower and the guarantor.

6. In view of the aforesaid statement, the suit filed by late Smt. Jagdish Kaur is rendered infructuous because she has only prayed for grant of decree of injunction restraining the Bank from dispossessing her. After the death of Smt. Jagdish Kaur, the property would vest in her heirs.

7. The learned counsel representing the Bank submits that a fresh notice under Section 13(2) of the 2002 Act, has already been issued against the borrower and guarantor with respect to the property, which was mortgaged.

8. Keeping in view the aforesaid facts, the civil suit filed by late Smt. Jagdish Kaur is rendered infructuous.

9. Accordingly, the revision petition is disposed of while directing the trial Court to consign the case file of the civil suit to the record room.

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

December 20th, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*