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

CR-7657-2018 (O&M)

Date of Decision: 24.02.2023

Ravinder Sharma

....Petitioner

Versus

Syndicate Bank and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Amitabh Tewari, Advocate &
Mr. Satvik Bansal, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 01.05.2018 (Annexure P-6) and order dated 05.07.2018 (Annexure P-7) passed by learned Chief Judicial Magistrate, Faridabad, whereby the concerned police station was directed to assist respondent No.1 to obtain physical possession of the property in question.

2. Succinct facts first, as pleaded in the revision petition.

2.1. Petitioner No.1 is guarantor of loan sanctioned by respondent No.1 to respondent No.2. Petitioner, in order to secure loan amount of Rs.45 lakhs had mortgaged his property in Faridabad measuring 143 square yards. However, on application under Section 14 of the SARFAESI Act filed by Respondent No.1-Bank, Ld. Chief Judicial Magistrate, Faridabad, vide

impugned order, directed the concerned police station to assist respondent No.1 to obtain physical possession of the property of petitioner.

3. The controversy involved in the present case is summed up in order dated 13.11.2018 passed by Raj Mohan Singh, J., while issuing notice of motion in the following terms:

“Learned counsel for the petitioner contends that in case of non-metropolitan area, only District Magistrate has the jurisdiction to order for assistance by the police as per requirement of Section 14 of SARFAESI Act.

Learned counsel relies upon IndusInd Bank Ltd. vs. The State of Maharashtra, 2008(110) BOMLR 2880 and K. Arockiyaraj and others vs. The Chief Judicial Magistrate, Srivilliputhur and others, AIR 2013 Mad 206.

Notice of motion for 12.03.2019.

Till the next date of hearing, impugned order be not given effect to.”

4. The above controversy has been put to rest vide Apex Court judgment dated 23.09.2019, rendered in Civil Appeal No.6295 of 2015 titled ***The Authorised Officer, Indian Bank vs. D. Visalakshi and Another.*** The question involved before the Supreme Court and the finding rendered qua the same are reproduced herein below:

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2. The seminal question involved in these appeals is: whether the Chief Judicial Magistrate (for short “CJM”) is competent to process the request of the secured creditor to take possession of the secured asset under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the 2002 Act”)? There are conflicting views of different High Courts on this question. The High Courts of Bombay, Calcutta, Madras, Madhya Pradesh and Uttarakhand have interpreted the said provision to mean that only the Chief Metropolitan Magistrate (for short “CMM”) in metropolitan areas and the District Magistrate (for short “DM”) in non-metropolitan areas are competent to deal with such request. On the other hand, the High Courts of Kerala, Karnataka,

Allahabad and Andhra Pradesh have taken a contrary view of the same provision, to mean that it does not debar or preclude CJM in the non-metropolitan areas to exercise power under Section 14 of the 2002 Act.

Xxxxx xxxxxxxx xxxxxxxx

48. To sum up, we hold that CJM is equally competent to deal with the application moved by the secured creditor under Section 14 of the 2002 Act. We accordingly, uphold and approve the view taken by the High Courts of Kerala, Karnataka, Allahabad and Andhra Pradesh and reverse the decisions of the High Courts of Bombay, Calcutta, Madras, Madhya Pradesh and Uttarakhand in that regard. Resultantly, it is unnecessary to dilate on the argument of prospective overruling pressed into service by the secured creditors (banks).

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5. In view of the aforesaid, nothing survives for adjudication before this Court. Revision petition being devoid of merit, and is dismissed in view of controversy involved having been settled by the Apex Court against the argument, as canvassed by learned counsel for petitioner at the time of issuance of notice of motion.

6. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

February 24, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No