

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

**RA-CW-64-2019 in
CWP-28922-2018 (O&M)
Date of Decision: 14.07.2023**

CANARA BANK

..... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. R.B. Gupta, Advocate
for the applicant/respondent no.4 in RA-CW-64-2019.

Mr. Arvind Rajotia, Advocate
for the non-applicant/petitioner.

Mr. Deepak Grewal, DAG, Haryana.

LISA GILL, J.

1. The applicant/respondent no.4 seeks review of order dated 15.11.2018, whereby the writ petition filed by the petitioner – Canara Bank was disposed of without any expression of opinion on the merits of the case while directing respondent no.2 to take a decision on the application dated 06.07.2018 (Annexure P-2), in accordance with law, by passing a speaking order and after affording an opportunity of hearing to the concerned parties within a period of two months from the date of receipt of certified copy of order. Prayer in the writ petition was for directing respondent no.2 to decide application dated 06.07.2018, filed by the Bank under Section 14 of the Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. Ground raised by learned counsel for respondent no.4 is that the petitioner-bank did not approach this Court with clean hands inasmuch as pendency of proceedings initiated by the bank before the learned Debt Recovery Tribunal-1, Chandigarh as well as a civil suit filed by the applicant as well as proceedings under the Provincial Solvency Act, 1920, initiated by them were not brought on record.

3. We have heard learned counsel for the parties but do not find any ground for review of order dated 15.11.2018, which has in fact been passed without any expression of opinion on the merits of the matter. Direction has been given to respondent no.2 to decide the application dated 06.07.2018 (Annexure P-2), after affording an opportunity of hearing to the parties concerned. At this stage gainful reference can be made to the judgment of the Hon'ble Supreme Court in ***Balkrishna Rama Tarle Vs. Phoenix ARC Private Limited and others, 2023(1) SCC 662***, wherein while expounding the scope of Section 14 of the SARFAESI Act and role of the District Magistrate, it has been held that for taking possession of secured assets in terms of Section 14(1) of the SARFAESI Act, secured creditor is enjoined upon to approach the District Magistrate/Chief Metropolitan Magistrate by way of written application. Reference was made to an earlier judgment of the Hon'ble Supreme Court in ***M/s. R.D. Jain and Company Vs. Capital First Ltd. and others (Civil Appeal No.175/2022)***, decided on 27.07.2022 and it was held that,

“Thus, the powers exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial step and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act, before Debts Recovery Tribunal.”

4. Learned counsel for the non-applicant petitioner submits that no objection would be raised for a hearing to be afforded to the applicant before respondent no.2. Keeping in view the nature of proceedings under Section 14 of the SARFAESI Act no prejudice has been caused to the applicant, as urged.

5. In the given facts and circumstances of the case we find no ground for review of order dated 15.11.2018. Review application is accordingly dismissed.
6. Pending miscellaneous applications, if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

14.07.2023

Sunil

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