

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

257

CR-1337-2022

Date of Decision :17.02.2023

Corporation Bank

...Petitioner

Versus

Baljeet Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Mahesh Dheer, Advocate & Mr. A.S. Jaswal, Advocate
for the petitioner.

Mr. Narender Singh Gill, Advocate and
Mr. Durga Dutt Shama, Advocate for respondents No.1 to 3.

Mr. Nilesh Bhardwaj, Advocate for respondent No.4.

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Harsimran Singh Sethi, J. (Oral)

In the present revision petition, the challenge is to order dated 10.03.2022 (Annexure P/5) by which, application filed by the petitioner-Bank under order 7 Rule 11 of the CPC for rejection of plaint on the ground that there is a bar under Section 34 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, '2002 Act') for entertaining any plea by the Civil Court which is covered under the 2002 Act hence, as the auction which has been done by the petitioner/Bank was under the 2002 Act, same cannot be challenged by way of a civil suit and only remedy available with the respondents-plaintiffs is to avail an appropriate remedy under the 2002 Act only.

Learned counsel for the petitioner-Bank submits that law on the

said issue has already been settled by the Hon'ble Supreme Court of India in **Civil Appeal No.6669-2021** titled as **Electrosteel Castings Limited vs. UV Asset Reconstruction Company Limited and others** decided on 26.11.2021.

Learned counsel for the respondents-plaintiffs very fairly submits that the respondents-plaintiffs will avail appropriate remedy available with them under the 2002 Act and the present suit may be treated as withdrawn with liberty to the respondents-plaintiffs to avail an appropriate remedy under the 2002 Act.

Learned counsel for the petitioner/bank submits that as the respondents-plaintiffs have already withdrawn the suit keeping in view the statement recorded hereinbefore with liberty to avail an appropriate remedy under the 2002 Act, the present petition may kindly be disposed of having been not pressed any further.

At this stage, learned counsel for the respondents submits that the judgment being relied upon by the petitioner-bank allows to avail an appropriate remedy under the 2002 act without there being any objection qua the limitation in case remedy under 2002 Act is availed within a period of two weeks hence, an appropriate order be passed in this regard.

Once, the settled principle of law in Electrosteel Castings Limited (supra) being relied by the learned counsel for the petitioner-bank grants benefit to the respondents qua limitation aspect, the petitioner is bound by the said settled principle of law in the present case as well. Hence, it is made clear that in case respondents/plaintiffs initiate an appropriate proceedings under 2002 Act within a period of two weeks from the date of receipt of copy of this order, the petitioner-Bank as well as respondent No.4

will not raise any objection qua the limitation.

The present petition stands disposed of having been not pressed any further in the above terms.

It is made clear that this Court has not expressed any opinion on the merits of the case.

Let the order be presented before the trial Court by the parties concerned so that appropriate order is also passed by the trial Court in the suit pending therein.

February 17, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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