

[139] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3140-2021

Date of Decision : 09.10.2023

Sheela Devi and others

...Petitioners

Versus

M/s Indiabulls Housing Finance Limited and others ...Respondents

Coram : **HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present : Mr. Abhishek Singh, Advocate for the petitioners.
Mr. Rajeev Anand, Advocate for respondent No.1.
Mr. Rajesh Goyal, Advocate for respondent No.6.

ANIL KSHETARPAL, J. (ORAL)

[1] Through this revision petition, the plaintiff assails the correctness of order dated 22.09.2021 passed by the learned District Judge, Gurugram. In substance the Court of first instance allowed the application filed under Order 7 Rule 11 of the Code of Civil Procedure, while relegating the petitioner to avail the remedy before the Debt Recovery Tribunal in view of bar to the jurisdiction of the Civil Court under Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act') to entertain such suits.

[2] Appeal filed by the petitioners before the first Appellate Court was also dismissed.

[3] Heard learned counsel representing the parties at length and with their able assistance, I have perused the paper book.

[4] Learned counsel representing the petitioners contends that the petitioners (plaintiffs before the trial Court) are not the borrowers of the

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6 and the plaintiffs are entitled to maintain the suit as fraud is being alleged.

[5] On the other hand, learned counsel representing the respondents, while drawing the attention of the Court to Section 17 of ‘the Act’, submits that any person including the borrower is entitled to file application under Section 17 before the Debt Recovery Tribunal. He submits that even petitioners have equally efficacious remedy before the Debt Recovery Tribunal.

[6] This Court has considered the submission. The provisions have been made in ‘the Act’ with respect to disputes arising in relation to recovery of loan from the mortgaged assets. Section 34 of ‘the Act’ puts a bar on the jurisdiction of the Civil Court to entertain such suits. Section 17 of ‘the Act’ enables the petitioners to file an application before the Debt Recovery Tribunal. The Debt Recovery Tribunal is entitled to decide the matter including the plea with regard to fraud. In such circumstances, no ground to interfere is made out.

[7] The present petition is dismissed accordingly.

(ANIL KSHETARPAL)
JUDGE

09.10.2023
'Rajneesh/Raman'

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