

2018 PLRonline 006

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PUNJAB AND HARYANA HIGH COURT

Before : Justice Ajay Kumar Mittal and Justice Avneesh Jhingan, JJ.

M/S HDB FINANCIAL SERVICES LTD – Petitioners,

versus

ADDITIONAL DEPUTY COMMISSIONER, KHANNA and others – Respondents.

CWP 14937-2018

15.10.2018

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Section 13(2), 14 – Bank had not issued the notice under Section 13(2) of the Act to legal heirs of Borrower – Petition filed under Section 14 of the Act rejected on the ground that the applicant-bank had failed to comply with the mandatory provisions of the Act – Application under Section 14 of the Act was not maintainable – SARFAESI Act 2002 , Section 14.

Mr. Vipul Dharmani, for the petitioner. Mr. Vijay Dahiya, for Mr. Nikhil Sharma, for respondents No.2 to 12.

Ajay Kumar Mittal, J. (Oral) – The petitioner has impugned orders dated 05.12.2017 and 09.04.2018 (Annexures P-9 & P-12) passed by Additional Deputy Commissioner under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, ‘the Act’) by way of present writ petition filed under Articles 226/227 of the Constitution of India.

2. A perusal of the impugned order passed by Additional Deputy Commissioner shows that the petition filed under Section 14 of the Act had been rejected on the ground that since the applicant-bank had failed to comply with the mandatory provisions of the Act and had not issued the notice under Section 13(2) of the Act to legal heirs of Smt. Ritu Kalia. Therefore, the application under Section 14 of the Act was not maintainable.

3. On 03.10.2018, learned counsel for respondents No.2 to 12 had made a statement that the borrowers/guarantors are alive and in the event of any death of borrower/guarantor, the details of the legal representatives of the deceased shall be furnished to the petitioner.

4. Accordingly, in terms thereof, the affidavit dated 12.10.2018 of Rajesh Kalia (respondent No.2) has been filed in Court today stating that Smt. Ritu Kalia, r/o 48, G.T.B. Nagar, Near

GTB Market, Khanna had expired and Rajesh Kalia, Abhaan Kalia and Fiza Kalia are the legal representatives of deceased Smt. Ritu Kalia. The same is taken on record. Copy has also been given to counsel opposite. Office to tag the same at appropriate place.

5. In view of the above, learned counsel for the petitioner submitted that he may be allowed to withdraw the present writ petition with liberty to the petitioner to take further proceedings, in accordance with law.

6. Dismissed as withdrawn. It shall, however, be open to the petitioner to take recourse to the remedies, as may be available to it, in accordance with law.