

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7664 OF 2019
(Arising out of SLP(C) No(s). 18484/2019)

RAJINDER DHIMAN

APPELLANT(S)

VERSUS

HDFC BANK LTD. & ORS.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. This appeal takes exception to the judgment and order dated 10.07.2019 passed by the High Court of Punjab and Haryana at Chandigarh in C.W.P. No.19554 of 2018. The said writ petition was filed by the respondent-HDFC Bank Ltd., purportedly for enforcement of the order passed by the District Magistrate dated 12.01.2018 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for short 'the Act'). Accordingly, a notice was issued to the appellant, after adding him as a party (respondent) in the writ petition.

3. The High Court proceeded to finally dispose of the writ petition directing delivery of possession of property in question to the respondent-Bank, as ordered by the District Magistrate.

4. The limited grievance before this Court is that the High Court, at best, ought to have relegated the parties before the Debts Recovery Tribunal with liberty to the appellant to resort to remedy under Section 17(4A) of the Act which had come into effect from 1st September, 2016.

5. The counsel for the respondent-Bank was at pains to point out that this plea was never raised before the High Court. Even so, in our opinion, the appropriate course of action in the facts of this case would have been to allow the appellant (person claiming to be in occupation of the subject premises) to invoke statutory remedy available to him under Section 17(4A) of the Act. Giving any other direction, in the writ petition filed by the secured creditor for enforcement of order passed by the District Magistrate under Section 14 of the Act, would, inevitably, have the effect of depriving the person in occupation of his statutory remedy. Indeed, the High Court could

have specified some time frame within which the appellant ought to resort to the statutory remedy.

6. We, accordingly, set aside the impugned order and allow this appeal but on following conditions :

(1) The appellant must take recourse to remedy under Section 17(4A) of the Act within four weeks from today, failing which the order passed by the District Magistrate dated 12.01.2018 will come into effect and in which case, it will be open to the respondent-Bank to proceed in the matter on the basis of the said order in accordance with law.

(2) In the event, the appellant resorts to remedy under Section 17(4A) of the Act, as aforesaid, the same be decided on its own merits in accordance with law uninfluenced by any observation made by the High Court in the impugned order. All contentions available to both the parties in the said proceedings are

left open.

(3) In addition, it will be open to the respondent-Bank to pursue other remedy as may be permissible in law against the appellant.

7. The Debts Recovery Tribunal may pass appropriate interim orders, as may be advised, after hearing both the parties.

8. We place on record the fair assurance given by the counsel for the respondent-Bank, on instructions, that the respondent-Bank will not take any precipitative action in relation to the subject property for a period of four weeks or until such orders as may be passed by the Debts Recovery Tribunal.

9. Appeal disposed of in the above terms. All pending applications are also disposed of. No Costs.

....., J.
(A.M. KHANWILKAR)

....., J.
(DINESH MAHESHWARI)

NEW DELHI
SEPTEMBER 27, 2019

ITEM NO.49

COURT NO.8

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 18484/2019

(Arising out of impugned final judgment and order dated 10-07-2019 in CWP No. 19554/2018 passed by the High Court Of Punjab & Haryana At Chandigarh)

RAJINDER DHIMAN

Petitioner(s)

VERSUS

HDFC BANK LTD. & ORS.

Respondent(s)

(FOR ADMISSION and IA No.115860/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 123526/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

WITH

SLP(C) No. 18888/2019 (IV-B)

IA No. 117723/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 127402/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 118714/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Diary No(s). 27052/2019 (IV-B)

IA No. 116306/2019 - CONDONATION OF DELAY IN FILING
IA No. 116308/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT & IA No. 127415/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 27-09-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Petitioner(s) Ms. Aishwarya Bhati, Sr. Adv.
Ms. Gagan Deep Kaur, Adv.
Mr. Pushkar Karni Sinha, Adv.
Mr. Dinkar Kalra, AOR

Mr. Sanjay Sarin, Adv.
Mr. Tarun Rana, Adv.
Mr. Ghanshyam Mishra, Adv.
Mr. Aditya Sarin, Adv.
Mr. Abhinav Ramkrishna, AOR
Mr. Kanishk Sharma, Adv.

For Respondent(s) Mr. Neeraj Kishan Kaul, Sr. Adv.
Mr. Kunal Tandon, Adv.
Mr. Shashank Shekhar, Adv.
Mr. Kush Chaturvedi, AOR
Ms. Priyashree Sharma PH, Adv.
Mr. Amandeep Singh, Adv.
Mr. Divyanshu Kumar Srivestava, Adv.

UPON hearing the counsel the Court made the following
O R D E R

SLP(C) No.18484/2019

Leave granted.

The appeal is allowed in terms of the signed order.

In view of the above, pending applications shall stand disposed of.

SLP(C) No. 18888/2019 & Diary No.27052/2019

Delay condoned.

The special leave petitions are dismissed.

The dismissal of these special leave petition(s), however, will not come in the way of the petitioner(s) to make representation(s) to the Bank for One Time Settlement, if so advised. That representation, if made, may be considered by the Bank on its own merits in accordance with law.

In view of the above, pending applications shall stand disposed of.

(NEETU KHAJURIA)
COURT MASTER

(PRADEEP KUMAR)
BRANCH OFFICER

(Signed order in SLP(C) No.18484/2019 is placed on the file.)