



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.5372 of 2024(O&M)

Date of Order:20.03.2025

Punjab National Bank

.Petitioner

Versus

Vikas Chahal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arpit Chawla, Advocate, for the petitioner.

ANIL KSHETARPAL, JUDGE (Oral)

1. BRIEF FACTS

1.1. The petitioner herein is a nationalized bank. An application filed by the petitioner to reject the plaint on account of lack of jurisdiction has been dismissed by the trial court.

1.2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

1.3. Sh. Ram Mehar Chahal has three sons, namely, Sh. Satish Chahal, Sh. Vinod Chahal and Sh. Vikas Chahal. Sh. Satish Chahal established the poultry farm in the name of M/s Chahal Poultry. He borrowed loan from the petitioner-bank. His father Sh. Ram Mehar Chahal stood as a guarantor for re-payment of the loan while mortgaging his property. There was default in re-payment of the loan which resulted in initiation of proceedings under the The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 2002 Act.) Notice under section 13(2) of the 2002 Act was issued on 16.05.2023.

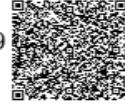
1.4. Sh. Vikas Chahal son of Sh. Ram Mehar Chahal filed a suit for



declaration that he is owner in possession of the house measuring 100 sq. yards situated in Anand Colony, Ward No.11, Safidon, the mortgaged property. Para 5 of the plaint reads as under:-

“That Satish Chahal committed fraud on Sh. Ram Mehar Singh Chahal (now deceased) who was a person of weak mental health and his memory had become feeble. He was dependent upon his son Satish Chahal as he used to live with him. Satish Chahal misused the fiduciary relationship with his father and fraudulently got deposited the title deeds of the suit house by showing Sh. Ram Mehar Singh Chahal as guarantor. This deposit of title deed is illegal and not binding on the right of the plaintiffs firstly because Sh. Ram Mehar Singh was not owner of the suit house as the same had fallen to the share of the plaintiff in the oral family partition reduced to writing on 04.10.2016 and secondly he never voluntarily stood guarantor for defendant no.1 and did not voluntarily deposit the title deed creating equitable mortgage. A fraud was committed by the defendant Bank and defendant no.1 on Ram Mehar Singh. Original sale deed was lying in the house as there was atmosphere of complete confidence between the brothers and father. Satish Chahal deposited the sale deed in the Bank without knowledge of Ram Mehar Singh. Signature of Ram Mehar Singh were obtained by telling him that he was signing on the account opening form for introducing Satish Chahal his son. Thus, the alleged equitable mortgage of the suit house by deposit of title deed no.33/1 dated 11.04.1996 is null and void and not binding on the rights of the plaintiff.”

1.5. The petitioner-bank filed an application under Order 7 Rule 11 of the Code of Civil Procedure, 1908, to reject the plaint as the



jurisdiction of the civil court is barred under Section 34 of the 2002 Act which has been dismissed by the court on the ground that the plea of fraud has been pleaded by the plaintiff and the question of jurisdiction of the court is a mixed question of law and fact.

1.6. This revision petition has been filed to challenge the correctness of the trial court's order.

1.7. Despite receipt of notice, the respondents have failed to enter appearance.

2. **ANALYSIS AND DISCUSSION:-**

2.1. Section 34 of the 2002 Act is extracted as under:-

34. Civil Court not to have jurisdiction.

- No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993."

2.2. Section 17 of 'the 2002 Act' enables any person to file proceedings before the Debt Recovery Tribunal. From time to time, the scope of Section 17 has been expanded and enlarged by the Parliament in order to allow any person to file proceedings before the Debt Recovery Tribunal. In ***Mardia Chemicals Ltd. Etc. vs. Union of India and another, AIR 2004 SCC 2371***, the Supreme court considered the scope of Section 34 of the 2002 Act. It was held that the civil courts can entertain the civil suits



in case the particulars of fraud are pleaded and serious fraud is alleged. In fact, this judgment has been subsequently reiterated by the Supreme court in *Electrosteel Castings Limited vs. UV Asset Reconstruction Com. Ltd. and others, 2022(2) SCC 573.*

2.3. This Court in *Punjab National Bank vs. Surender Singh Bedi and others (Civil Revision No.2195 of 2021, decided on 12.07.2022)* got an opportunity to examine the aforesaid provision. It was held that the jurisdiction of the civil court is barred unless there are allegations of serious fraud.

2.4. In the present case, the plaintiff alleges misrepresentation on the part of his brother. It is in between the family members. The particulars of fraud have also been pleaded as required. This aspect can be examined by the Debt Recovery Tribunal which is also presided over by a Judicial Officer. Moreover, the trial court has erred in observing that the question of exclusion of jurisdiction is a mixed question of law and fact

3. **DECISION:-**

3.1. Consequently, the revision petition is allowed. The impugned order passed by the trial court on 03.05.2024, is set aside. The plaint filed by the plaintiff shall stand rejected. However, the plaintiff(s) will have the liberty to file proceedings under Section 17 of the 2002 Act.

3.2. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

March 20, 2025

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