
Abhinav Kejriwal Vs Jagmohan Kejriwal and Others

CWP No. 14687 of 2015 (OandM)

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 23, 2015

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) - Section 17

Citation: (2015) 180 PLR 360

Hon'ble Judges: Hemant Gupta and Lisa Gill, JJ.

Bench: Division Bench

Advocate: R.S. Bhatia, for the Appellant

Final Decision: Disposed Off

Judgement

Hemant Gupta, J.

1. After arguing for some time, Learned counsel for petitioner restricts his grievance so as to expunge remarks in para 10 of the order passed by

Debts Recovery Tribunal-I Chandigarh (for short "Tribunal") which reads as under:--

10. Accordingly this SA is dismissed with a cost of Rs. 5 lakh towards expenses incurred by the Bank. It is further directed that the Bank Officer

should take immediate action against the Karta who has defrauded the Applicant as claimed by him and not only the Applicant but with connivance

of the Applicant itself. The Applicant is also at liberty to file criminal complaint against Karta for committing fraud with him as is being claimed by

him. Any application pending stands disposed of.

We find that the above observations of learned Presiding Officer, Debts Recovery Tribunal-I, Chandigarh cannot be sustained as it is the Bank

who has to see whether any action should be taken against the borrower or the applicant or not. The Tribunal while exercising jurisdiction under

Section 17 of the Securitization and Reconstruction of Financial Asset and Enforcement of Security Interest Act, 2002, is not exercising the

powers of the writ Court.

2. We are afraid as to whether such directions can be issued even by the writ court. A statutory Tribunal is vested with limited power to decide the

grievance of an aggrieved person. It has no jurisdiction to issue directions against the person, who approaches the Tribunal for relief. The Tribunal

can dismiss or allow an application but unsolicited advice or directions are not part of the jurisdiction vested in the Tribunal.

3. We do not find any justification for imposition of costs of Rs. 5,00,000/- as well. The petitioner has paid court fee and the expenses incurred by

the Bank to defend the application are bound to be credited to the account of the borrower. Therefore, the costs of Rs. 5,00,000/- is penal and

unwarranted and thus set aside.

4. In view of above, the observations and direction issued by the Tribunal as contained in para 10 of the order are ordered to be expunged. This

order is being passed without issuing notice to the Bank as none of the rights of the Bank are affected by this order in any manner. But still giving

liberty is given to the Bank to file an application, if it finds that any of the rights of the Bank have been affected without hearing them. As a

consequence, the order of dismissal of SA stands but the directions and observations as contained in para 10 of the order shall stand expunged.

The present writ petition is disposed of accordingly.