

4 (SDB)

CRM-30143-2020 in CRA-S-4456-SB-2017

DEPUTY DIRECTOR, ENFORCEMENT DIRECTORATE,
JALLANDHAR

VS

STATE BANK OF INDIA

Present: Mr. Rajiv Joshi, Advocate, for the applicant.

Mr. Arvind Moudgil, Sr. Panel Counsel,
for the non-applicant/appellant.

Due to prevailing situation of COVID-19, matter has been heard through Video Conferencing.

Present application has been filed for recall/modification of order dated 28.02.2020 whereby it was held that on conjoint reading of both the Acts, the PMLA would prevail over the SARFAESI Act.

At the outset, we put a query to learned counsel that in view of provisions of Section 362 Cr.P.C. how the present application can be entertained. No clear answer is forthcoming. He relies upon a judgment of Hon'ble the Supreme Court in a case titled as 'New India Assurance Company Limited versus Krishna Kumar Pandey, SLP(CRL No.8499 of 2014).

However, we find that the said judgment is not applicable to the facts of the instant case as the same was delivered in the circumstances where there was abuse of process of court, violation of principles of natural justice and lack of jurisdiction. In the instant case, however, no such allegation is there. On the other hand, judgments passed in the cases titled as 'Hari Singh Mann versus Harbhajan Singh Bajwa and others, (2001) 1 SCC 169', 'Sooraj Devi versus Pyare Lal and another, (1981) 1 SCC 500', 'Mohammed Zakir versus Shabana and others, (2018) 15 SCC 316', 'Sunita

Jain versus Pawan Kumar Jain and others, (2008)2 SCC 705', are relevant and are applicable.

Thus, application is hereby dismissed.

(RAJAN GUPTA)
JUDGE

(AJAY TEWARI)
JUDGE

January 22, 2021
sukhpreet



सत्यमेव जयते

