

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.1252 of 2002 (O&M)

Date of decision:4.4.2016

The Bank of Tokyo Mitsubishi Ltd.

....Petitioner

VERSUS

The Debts Recovery Tribunal, Chandigarh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.K. Chhibber, Senior Advocate with
Mr. Sumit Dhar, Advocate,
Mr. Lalit Thakur, Advocate and
Mr. Vaibhav Sahni, Advocate
for the petitioner.

Mr. I.P. Singh, Advocate
for respondent No.2.

REKHA MITTAL, J.(Oral)

The present petition under Article 227 of the Constituion of India has been filed to impugn orders dated 01.11.2001, 21.11.2001, 20.02.2002 and the notices sent by the Recovery Officer-II, Debts Recovery Tribunal, Chandigarh (in short 'the Tribunal') under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (in short 'the Act').

The petition was filed in the year 2002. On 01.03.2002, notice of motion was issued and was accepted by counsel representing respondent No.2. Simultaneously, further proceedings qua the petitioner and its officers before the Tribunal were stayed. Later the case was admitted on 21.02.2003.

Counsel for the petitioner made his submissions to assail the impugned orders and notices. However, counsel for the contesting respondent, on a query by the Court, whether any statutory remedy to

challenge an order passed by the Recovery Officer of the Tribunal is available or not, has pointed out that Section 30 of the Act provides for an appeal against the order of Recovery Officer.

A relevant extract from Section 30 of the Act reads as under:-

“30. Appeal against the order of Recovery Officer.-

(1) Notwithstanding anything contained in section 29, any person aggrieved by an order of the Recovery Officer made under this Act may, within thirty days from the date on which a copy of the order is issued to him, prefer an appeal to the Tribunal. ”

As the statutory remedy of appeal is available against the order passed by the Recovery Officer, the petitioner in place of availing of the statutory remedy abruptly rushed to this Court by invoking its jurisdiction under Article 227 of the Constitution of India.

In view of the fact that statutory remedy of appeal is available to the petitioner, without going into merits of the controversy, the petition stands disposed of with liberty to the petitioner to avail of the remedy of appeal, in accordance with law. The petitioner shall be at liberty to raise a plea that as it was pursuing remedy before the High Court since 2002, delay in filing the appeal may be condoned and the Authority concerned would consider the matter sympathetically, but as provided under law.

APRIL 4, 2016
‘D. Gulati’

(REKHA MITTAL)
JUDGE