

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

221

Civil Writ Petition No.11026 of 2016
Date of Decision: September 27, 2016

Kamal Kumar Tarnaich

....Petitioner

versus

The Authorized Officer, Punjab and Sind Bank and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ashok Gupta, Advocate for the petitioner.

Mr. I.P. Singh, Advocate for the respondent-Bank.

AJAY KUMAR MITTAL, J. (Oral)

1. The petitioner has approached this Court under Articles 226/227 of the Constitution of India, seeking quashing of order dated 12.05.2016 (**Annexure P-20**) passed by the Debts Recovery Tribunal-II, Chandigarh whereby the respondents were directed to restore the physical possession of the agricultural land of the petitioner.

2. It was not disputed by learned counsel for the petitioner that order impugned herein i.e. Annexure P-20 is an appealable order under Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act'), before the Debts Recovery (Appellate) Tribunal.

3. Section 18 of the Act reads thus:-

"18. Appeal to Appellate Tribunal

(1) Any person aggrieved, by any order made by the Debts Recovery Tribunal under section 17, may prefer an appeal alongwith such fee, as may be prescribed to the Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal:

PROVIDED that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower:

PROVIDED FURTHER that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

PROVIDED ALSO that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso.

(2) Save as otherwise provided in this Act, the Appellate Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder."

4. In view of the above, learned counsel for the petitioner prayed that the present writ petition be dismissed as withdrawn with liberty to the petitioner to approach the appellate authority.

5. Accordingly, the writ petition is dismissed as withdrawn. However, it shall be open to the petitioner to take recourse to the remedy as may be available to him, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

September 27, 2016
sonia gugnani

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No