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

215 **Civil Writ Petition No.11404 of 2016**
Date of Decision: October 18, 2016

Satpal Kaur ...Petitioner

versus

Debts Recovery Tribunal-I, Chandigarh and others
...Respondents

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

*****

Present: Mr. Krishan Singh, Advocate for the petitioner.

Mr. P.S. Sobti, Advocate for respondent No.2.

Mr. Rohit Suri, Advocate for respondent No.4.

Mr. Puneet Tuli, Advocate for respondent No.5.

*****

AJAY KUMAR MITTAL, J. (Oral)

1. The primary challenge in this writ petition is to the notice dated 27.07.2011 (**Annexure P-3**) issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'), the possession notice dated 28.05.2013 (**Annexure P-12**) issued under Section 13(4) of the SARFAESI Act read with Rules 6(2) and 8(6) of the Security Interest (Enforcement) Rule, 2002 and further quashing the sale deed No.2613/2013 dated 31.10.2013 (**Annexure P-17**) executed by the respondent-Bank in favour of respondent No.3 on 31.10.2013 and the sale certificate dated 20.09.2013 (**Annexure P-18**) purported to have been issued under Rule 9(6) of the SARFAESI

Act which have been culminated into the impugned order dated 20.05.2015 (Annexure P-23) passed by respondent No.1 whereby the SARR No.12217 of 2013 filed by the petitioner has been dismissed with cost of ₹ 50,000/-. Further prayer has also been made to direct the respondents to pay adequate compensation/cost and damages to the petitioner to the tune of ₹ 20 lacs under Section 19 of the SARFAESI Act.

2. It was not disputed by learned counsel for the parties that the order impugned herein i.e. Annexure P-23 is an appealable order under Section 18 of the SARFAESI Act, before the Debts Recovery (Appellate) Tribunal. Section 18 of the SARFAESI 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."*

3. In view of the above, since certain questions of fact are required to be proved, the present petition is disposed of by relegating the petitioner to the remedy of appeal before the Debts Recovery (Appellate) Tribunal. However, it is observed that in case, the appeal is filed by the petitioner within a period of thirty days from today, the same shall not be dismissed on the ground of limitation.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

October 18, 2016
sonia gugnani

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No