

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

**CWP No. 19111 of 2016
Decided on : 19.09.2016**

Balbir Singh

... Petitioner

Versus

Presiding Officer, Debts Recovery Tribunal-II, Chandigarh & another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE KULDIP SINGH**

PRESENT: Mr. Anil Kumar Aggarwal, Advocate
for the petitioner.

Mr. Yogesh Goel, Advocate for
Mr. Suresh Goyal, Advocate
for respondent No.2 - Caveator.

AJAY KUMAR MITTAL, J. (Oral)

The primary challenge in this writ petition filed under Articles 226/227/14/21 and 300A of the Constitution of India, to the order dated 10th August, 2016 (Annexure P-1), passed by respondent No.1 i.e. Presiding Officer, Debts Recovery Tribunal-II, Chandigarh.

2. It was not disputed by the learned counsel for the petitioner that the order impugned herein i.e. Annexure P-1 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, we dispose of the present writ petition by relegating the petitioner to approach the Debts Recovery (Appellate) Tribunal under Section 18 of the Act, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(KULDIP SINGH)
JUDGE

September 19, 2016

J.Ram

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No