

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

CWP No. 192 of 2016

DATE OF DECISION : 31.08.2016

Bharat Bhushan Mittal

.... PETITIONER

Versus

Bank of Punjab (now HDFC Bank) and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Manoj Kumar Sood, Advocate,
for the petitioner.

* * *

RAMENDRA JAIN, J.

1. The petitioner, by way of the instant petition under Articles 226/227 of the Constitution of India has sought issuance of a writ in the nature of certiorari for quashing the order dated 20.10.2015 (Annexure P-5) passed by the Debts Recovery Appellate Tribunal, Delhi (respondent No.4 herein), dismissing the application of the petitioner for transfer of his appeal from DRT-II, Delhi to DRT-II, Chandigarh.

2. The petitioner along with other borrowers preferred an appeal dated 11.06.2009 (Annexure P-2) before the DRT, Chandigarh, challenging the order dated 28.05.2009 (Annexure P-1) passed by the Recovery Officer, DRT, Chandigarh. During the pendency of the said appeal, the Presiding Officer, DRT-II, Chandigarh, sent a communication to respondent No.4 with a prayer that he does not wish to hear the appeal. Since the same

Presiding Officer was having charge of both the DRTs at Chandigarh,

therefore, on the aforesaid communication, without the petitioner having been served, respondent No.4 vide order dated 01.12.2014 (Annexure P-3) transferred his appeal to DRT-II, Delhi. Subsequently, on appointment of another Presiding Officer, when both the Tribunals, i.e. DRT-I and DRT-II, at Chandigarh, started functioning independently, the petitioner moved an application (Annexure P-4) before respondent No.4 for transferring his appeal back from DRT-II, Delhi, to DRT-II, Chandigarh, which was dismissed by respondent No.4 vide order dated 20.10.2015 (Annexure P-5).

3. The grouse of the petitioner is that in spite of the fact that on 20.10.2015, when the impugned order was passed, DRT-II, Chandigarh had started functioning independently, respondent No.4 dismissed the aforesaid application of the petitioner for transfer of his appeal from DRT-II, Delhi to DRT-II, Chandigarh, without passing a speaking order.

4. A perusal of the earlier order dated 01.12.2014 (Annexure P-3) shows that on a communication received from the Presiding Officer, DRT-II, Chandigarh, showing his unwillingness to hear the appeal of the petitioner, respondent No.4 suo moto transferred the appeal from DRT-II, Chandigarh to DRT-II, Delhi, without hearing the petitioner. Admittedly, on 01.12.2014, when appeal of the petitioner was transferred from DRT-II, Chandigarh to DRT-II, Delhi, the Presiding Officer, DRT-II, Chandigarh, was holding dual charge of both the Tribunals, i.e. DRT-I and DRT-II, at Chandigarh, who had shown his unwillingness to hear the appeal of the petitioner. Thereafter, another Presiding Officer was appointed in DRT-I, Chandigarh. Now, both the Tribunals are functioning independently. Hence, there cannot be any impediment in transferring the appeal of the petitioner

back to Chandigarh, to be heard by DRT-II, Chandigarh who exercises jurisdiction in the matter, not to be presided over by the Presiding Officer, who had shown his unwillingness to hear the appeal of the petitioner. Even otherwise, despite service having been effected in the instant writ petition, no body has appeared on behalf of respondent No.1 bank to oppose the prayer of the petitioner.

5. For the reasons recorded above, the order dated 20.10.2015 (Annexure P-5) passed by respondent No.4 dismissing the application of the petitioner for transfer of his appeal from DRT-II, Delhi to DRT-II, Chandigarh, is set aside. The appeal dated 11.06.2009 (Annexure P-2) filed by the petitioner against the order dated 28.05.2009 (Annexure P-1) passed by the Recovery Officer, DRT, Chandigarh, is transferred from DRT-II, Delhi to Chandigarh, to be heard by DRT-II, Chandigarh not to be presided over by the Presiding Officer, who had shown his unwillingness to hear the said appeal. The DRT-II, Chandigarh, shall proceed further with the appeal in accordance with law after due notice to the respondent bank.

6. Disposed of in the aforesaid terms.

(RAMENDRA JAIN)
JUDGE

August 31, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No