

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

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**Civil Writ Petition No.9551 of 2016
Date of Decision: October 24, 2016**

M/s Vasudev International (India) ...Petitioner

versus

Authorized Officer, Canara Bank ...Respondent

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

Present: Mr. Devender Rattan, Advocate for the petitioner.

Mr. G.S. Anand, Advocate for the respondent.

AJAY KUMAR MITTAL, J. (Oral)

1. The petitioner has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India, seeking quashing the order dated 25.04.2016 (**Annexure P-17**) passed by the Debts Recovery Tribunal-II, Chandigarh (in short 'the Tribunal'), the E-auction sale notice dated 08.04.2016 (**Annexure P-16**) and directing the respondents to supply the revised statement of accounts as per the order dated 14.01.2016 (**Annexure P-10**).

2. The primary challenge in this writ petition is to the order dated 25.04.2016 (**Annexure P-17**) passed by the Tribunal against which it was not disputed by learned counsel for the parties that the order impugned herein i.e. Annexure P-17 is an appealable order under Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002 (in short ' SARFAESI Act'), before the Debts Recovery (Appellate) Tribunal (in short 'the DRAT'). 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, learned counsel for the petitioner prayed that he may be allowed to withdraw the present writ petition, however, liberty be granted to the petitioner to file an appeal before the DRAT. Learned counsel further submitted that this Court vide order dated 13.05.2016 had granted status quo in respect of the residential accommodation of the petitioner and it was prayed that the same be continued till the filing of the appeal before the DRAT.

4. Dismissed as withdrawn.

5. However, it is observed that in case, the appeal is filed by the petitioner within a period of fifteen days from today, the same shall not be dismissed on the ground of limitation. It is also clarified that the status quo granted by this Court vide order dated 13.05.2016 shall continue till the filing of the appeal along with the stay application within the time framed. Needless to say that the grant of interim stay by this Court on 13.05.2016 shall not be taken as an expression of opinion of the merits of the controversy.

(AJAY KUMAR MITTAL)
JUDGE

October 24, 2016
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No