

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

CA-CWP-13-2017 (O&M) in

CWP-COM-40-2016

Date of decision:- 23.05.2017

Smt. Gurmeet Kaur

...Appellant

Versus

Debt Recovery Tribunal-II, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Chetan Mittal, Senior Advocate,
with Mr. V.K. Sachdeva, Advocate,
for the appellant.

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S.J. VAZIFDAR, C.J. (ORAL)

This is an appeal against the order of the learned Single Judge dated 24.04.2017 dismissing the appellant's writ petition challenging the order of the Debts Recovery Tribunal (DRT). The DRT rejected the appellant's application for interim reliefs in an appeal filed by her under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short the Act). The learned Single Judge dismissed the writ petition on the ground that the appellant has an alternate remedy of filing an appeal to the Debts Recovery Appellate Tribunal (DRAT) under Section 18 of the Act.

2. There is no warrant for interfering with the impugned order. The DRT has held that the Tribunal has no power to demarcate the property. The appellant's case is that she mortgaged only 477 sq. yards out of the larger property measuring 626 sq. yards. The respondent-bank on the other

hand contends that what was mortgaged was the entire 626 sq. yards. The appellant had also sought to redeem the mortgage. The scope of the disputes, therefore, are not limited merely as regards whether or not the DRAT has the power to demarcate the property. There are other disputed questions. In these circumstances, the learned Single Judge rightly relegated the appellant to the alternate remedy of filing an appeal.

3. Mr. Mittal, learned senior counsel appearing on behalf of the appellant, stated that the appellant has no objection to the property being sold and the sale proceeds being appropriated towards the claim against the principal debtor. The appellant is only the guarantor.

4. As we mentioned, there are other issues also such as whether only a part of the property was mortgaged or not and the amount that would require to be paid by the appellant for redemption.

5. The appeal is, therefore, dismissed.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

23.05.2017

Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No