IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10337 of 2017
Decided on : 22.05.2017

Gurmohan Singh and another

... Petitioners

Versus

M/s Kotak Mahindra Bank and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

PRESENT: Mr. Rohit Suri, Advocate
for the petitioners.

Mr. B.K. Singla, Advocate for
M. Jaswinder Singh Mann, Advocate
for the caveator.

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AJAY KUMAR MITTAL, J. (Oral)

The petitioner have approached this Court under Articles 226/227 of the Constitution of India, seeking quashing of order dated 03.04.2017 (Annexure P-1) in SA No.269 of 2017, titled as "Gurmohan Singh Vs. Kotak Mahindra Bank, which has been held to be premature in view of the orders passed by the DRAT, Delhi in case titled as "Vikram Bakshi and Company Pvt. Ltd. Vs. HDFC Ltd." (Annexure P-7).

2. It was not disputed by the learned counsel for the petitioners 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 such a situation and keeping in view the above, as certain facts are required to be established, we refrain ourselves from entertaining the petition and relegate the petitioners to avail the aforesaid alternative remedy, in accordance with law.

5. Dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 22, 2017
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*