

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.18548 of 2015 (O&M)
Date of Decision:- 8.11.2017

Kay Bee Safal (India) Ltd.

... Petitioner

Versus

Debts Recovery Appellate Tribunal and others

... Respondents

CORAM: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurminder Singh Gill

Present:- Mr. Anand Chhibbar, Senior Advocate with
Mr. Gourav Mankotia, Advocate for the petitioner.

Mr. Arvind Rajotia, Advocate for respondent No.2.

Rajesh Bindal, J.

The petitioner has filed the present petition impugning the order dated 29.5.2015 passed by the Debts Recovery Appellate Tribunal (for short 'the DRAT') in Appeal No.377 of 2011 against the order passed by the Debts Recovery Tribunal (for short 'DRT') in Securitisation Application (SA) No.79 of 2009. The DRT in the present case had opined that part of the property, which was mortgaged, was agricultural land, hence, the provisions of Section 31(i) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act") will not be applicable. In appeal filed by the bank before the DRAT, the matter was remitted back to the DRT to reconsider the issue on the basis

of the evidence on record, especially, as to whether the land mortgaged by the petitioner with the bank is being used for agricultural purpose or not.

It is not in dispute that for recovery of the loan from the petitioner, the respondent-bank had filed Original Application (OA) No.396 of 2002 before the DRT, which was allowed on 6.3.2003. The bank was held entitled to recover a sum of ₹ 8,33,99,034/- along with interest as mentioned in the order. It is further not in dispute that the petitioner did not prefer any appeal against the aforesaid order passed by the DRT. Recovery proceedings could not continue, as after passing of order by the DRT, the petitioner had approached the Board for Industrial & Financial Reconstruction (BIFR) under the provisions of Section 22 of Sick Industrial Companies (Special Provisions) Act, 1985 (for short "SICA").

As stated by learned counsel for the petitioner, the aforesaid Act was repealed on 1.12.2016 and now it is open for the bank to execute the order passed by DRT in its favour. The Recovery Officer can take appropriate steps for sale of property, which includes even the land in question for which the matter has been remitted back by the DRAT to the DRT for consideration, whether it is agricultural land or not.

The facts as emerge now are that OA filed by the bank seeking to recover the loan from the petitioner has already been decreed and the properties including the land in question can be sold by the Recovery Officer for recovery of the decretal amount. The only difference would be that in case the land in question is opined to be agricultural, action under SARFAESI Act may not be possible. Otherwise, it can be sold by the Recovery Officer under the provision of Recovery of Debts Due to Banks

and Financial Institutions Act, 1993.

Keeping in view the aforesaid facts, we do not find any reason to entertain the present petition and the same is accordingly dismissed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

8.11.2017
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Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No