

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

102

**Civil Writ Petition No.25625 of 2016
Date of decision: February 13, 2017**

M/s Malhotra Co-owners

....Petitioner

versus

Debts Recovery Tribunal-II, Chandigarh and others

....Respondents

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

Present: Mr. Inderjit Sharma, Advocate for the petitioner.

AJAY KUMAR MITTAL, J. (Oral)

The challenge in this petition filed under Articles 226/227 of the Constitution of India is to the order dated 26.10.2016 (**Annexure P-9**) passed by respondent No.1 vide which the appeal filed by the petitioner has been dismissed and ex-parte recovery certificate dated 27.03.2001 (**Annexure P-1**) passed by respondent No.2 in OA No.689 of 2000 and further quashing the order dated 17.07.2006 (**Annexure P-6**) vide which the objections filed by the petitioner in the execution proceedings have been dismissed and the property in dispute has been put to auction. Further prayer has also been made to direct the respondent-Bank to grant sanction/assent to One Time Settlement proposal dated 22.05.2001.

2. It was not disputed by the learned counsel for the petitioner that the order impugned herein i.e. **Annexure P-9** 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 (in short ' the DRAT').

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 view thereof, learned counsel for the petitioner submitted that he may be allowed to withdraw the present writ petition. However, a prayer was made that liberty be granted to the petitioner to approach the DRAT under Section 18 of the Act to avail the remedy thereunder.

5. Dismissed as withdrawn. It shall, however, be open to the petitioner to take recourse to the remedies as may be available to it, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

February 13, 2017
sonia gugnani

(RAMENDRA JAIN)
JUDGE

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