

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

CWP No. 24984 of 2017 (O&M)

Date of decision : 29.11.2017

Govinder Singh and another

.. Petitioners

versus

Presiding Officer, Debt Recovery Tribunal-III,
and others

.. Respondents

Coram: **Hon'ble Mr. Justice Rajesh Bindal**
 Hon'ble Mr. Justice Gurvinder Singh Gill

Present: Mr. Parveen K. Kataria, Advocate, for the petitioners.

Rajesh Bindal, J.

Prayer made in the present writ petition is for setting aside order dated 3.3.2017 passed by Debts Recovery Tribunal-III, Chandigarh (for short, 'the Tribunal') vide which SA No. 16/17, filed by the petitioners was dismissed in default and further for setting aside of order dated 22.3.2017, vide which restoration application was dismissed being not maintainable.

Issue regarding maintainability of application for restoration of application filed under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), which has been dismissed in default, has been considered by this Court and vide detailed judgment delivered today in CWP No. 14283 of 2017 – Anil Kapoor vs Ing Vysya Bank now Kotak Mohindra Bank and others, the same has been allowed. It has been opined therein that an application filed for restoration of application under Section 17 of the SARFAESI Act, which was dismissed in default, is maintainable.

In the present case, we feel that notice of motion is not required to be issued as this will only delay the process of disposal of the case, once the legal issue involved has already been decided and the matter is to be examined by the Tribunal on merit of the application.

For the detailed reasons recorded in Anil Kapoor's case (supra), the impugned order dated 22.3.2017 dismissing the application for restoration of the application filed under Section 17 of the SARFAESI Act, which was dismissed in default is set aside. The matter is remitted back to the Tribunal. The petitioners are directed to appear before the Tribunal on 21.12.2017. The Tribunal shall now summon the respondents for taking up the application and for decision thereof after hearing respective counsels for the parties.

The writ petition stands disposed of.

(Rajesh Bindal)
Judge

29.11.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No