

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

CWP No. 26139 of 2017 (O&M)

Date of decision : 29.11.2017

M/s Ashiana Inn Limited and another .. Petitioners
versus

Debts Recovery Tribunal-III and others .. Respondents

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

Present: None for the petitioners.

Mr. B.P.S. Dhaliwal, Advocate, for respondents No.2 and 3.

Rajesh Bindal, J.

Reply on behalf of respondents No.2 and 3 filed in Court is taken on record.

The petitioners have challenged the order dated 10.4.2017 passed by the Debts Recovery Tribunal-III, Chandigarh (for short, 'the Tribunal'), whereby SA No.349/2017 filed by the petitioners impugning the action taken by the Bank under Section 13(4) of the SARFAESI Act, 2002, was dismissed as premature relying upon the judgment of DRAT, Delhi in Misc. Appeal No.60/16 titled as Vikram Bakshi & Company Pvt. Ltd. Vs. Housing Development Finance Corporation Ltd. & others, decided on 20.3.2017.

Short submission made by the petitioners in the present petition is that the aforesaid judgment of DRAT, Delhi has been stayed by Delhi High Court in W.P. (C) 2966 of 2017 titled as Vikram Bakshi & Company Pvt.Ltd. vs. Housing Development Finance Corporation Ltd. & others on 10.4.2017. Further referred to the order passed by this Court in a bunch of writ petitions with main order in CWP-COM No.62 of 2017 titled as M/s

Hall Mark Steel Pvt. Ltd. and others vs. Federal Bank and others, decided on 21.4.2017, whereby under identical circumstances, order passed by DRT was set aside. The matters were remitted back. Reference has also been made to the order passed in CWP No.18721 of 2017 titled as Mohinder Singh and another vs. HDFC Bank and another, decided on 31.8.2017. The prayer is that the order passed by the Tribunal be set aside and the matter be remitted back to be decided on merit.

Learned counsel for respondents No.2 and 3, while not disputing the aforesaid orders passed by this Court submitted that once reply has been filed by it, the matter may be considered by this Court on merits instead of remitting it back.

After hearing learned counsel for respondents No.2 and 3 and considering the earlier orders passed by this Court in M/s Hall Mark Steel Pvt. Ltd. and Mohinder Singh's cases (supra), in our view, the impugned order dated 10.4.2017 (Annexure P-3) deserves to be set aside.

Ordered accordingly.

The matter is remitted back to the Tribunal for decision on merit. The parties through their counsels are directed to appear before the Tribunal on 19.12.2017.

The petition stands disposed of.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

29.11.2017
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No