

CWP No.8613 of 2017

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8613 of 2017
Date of decision: 27.04.2017

Urmila Devi and another

....Petitioners

Versus

Debt Recovery Tribunall-II, Chandigarh and others

....Respondents

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

Present: - Mr. R.K. Rana, Advocate, for the petitioners.

AJAY KUMAR MITTAL, J. (ORAL)

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of *certiorari* impugning the order dated 28.03.2017 (Annexure P-7) passed by Debt Recovery Tribunal-II, Chandigarh, challenging the notice dated 09.12.2016 (Annexure P-4) issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') and notice dated 14.02.2017 (Annexure P-5) issued under Section 13(2) of the SARFAESI Act.

2. It is not disputed that against the aforesaid order, an appeal is maintainable under Section 18 of the SARFAESI Act, which 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:

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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.”

3. In view of the above, since factual matrix is required to be established by leading evidence etc., we refrain ourselves from entertaining this writ petition and give liberty to the petitioners to avail remedies as may be available to them in accordance with law.

4. Dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

April 27, 2017
R.S.

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No