

**In the High Court of Punjab and Haryana at Chandigarh.**

**CWP-COM-138 of 2017  
Decided on 12.5.2017**

M/s. Datsun India and others

--Petitioners

Vs.

The Allahabad Bank Ltd. and others

--Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN**

Present: Mr.Manuj Nagrath, Advocate, for the petitioner

**Rakesh Kumar Jain,J:** (Oral)

This petition is filed against the order dated 03.4.2017 passed by the Debts Recovery Tribunal-III, Chandigarh,in SA No.291 of 2017, dismissing the application of the petitioner on the ground of being pre-mature.

This decision has been taken by the Debts. Recovery Tribunal -III, Chandigarh on the basis of an order dated 20.3.2017 passed by the Debts. Recovery Appellate Tribunal, Delhi in MA No.60 of 2016, in which it has been held that S.A cannot be filed unless and until the borrower loses his possession to the secured creditor.

Learned counsel for the petitioner has submitted that a bunch of writ petitions has been disposed of by this Court including **CWP-COM-94 of 2017- Darshan Singh and another Vs. The Asset Reconstruction Company and others** decided on 25.4.2017, setting aside the order of the

DRT- Chandigarh, directing it to entertain the application filed by the borrowers without waiting for their dispossession because the order passed by the DRAT has been stayed by the Delhi High Court and is not in existence/operation at present.

In view of the above, I do not find any reason to issue any notice to the respondents in the present petition as the issue involved is of interpretation of the order of the Delhi High Court.

Hence, the present petition is hereby allowed and the impugned order is set aside with a direction to the DRAT-III Chandigarh, to allow the petitioners to pursue their S.A.

The petitioners are directed to appear before the DRAT-III Chandigarh on 18.5.2017.

A copy of this order be given to learned counsel for the petitioners under the signatures of Bench Secretary.

Till then, the respondents are restrained from taking any coercive steps against the petitioners.

**12.5.2017**  
**rr**

**(Rakesh Kumar Jain)**  
**Judge**

**Whether Speaking/Reasoned:**

**Yes/No.**

**Whether Reportable:**

**Yes/No**