IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No.2152 of 2018
Date of Decision.24.04.2018

Rashmi Chhabra ......Petitioner

Vs

State Bank of Patiala and another ....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

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AMIT RAWAL J.(ORAL)

The petitioner-plaintiff is aggrieved of the impugned order whereby the application filed by the respondent-bank for rejection of the plaint under Order 7 Rule 11 CPC has been allowed and appeal preferred against the same has also been dismissed.

Mr. Sandeep Arora, learned counsel appearing on behalf of the petitioner submits that the petitioner-plaintiff instituted the suit against the respondent-State Bank of Patiala seeking following relief:-

> *"Suit for mandatory injunction directing the defendants to sell the portion of the property measuring 30.92 marlas out of the total property measuring 49.117 marlas and further releasing the remaining property measuring more than 19 marlas and issuing the NOC regarding that portion.*
>
> *OR*
>
> *In alternative suit for mandatory injunction directing the defendants to sell the entire property measuring 49.117 marlas and releasing the NOC with regard to the loan and further releasing the access payment to the plaintiff to the tune of*

Rs.47,19,880.28/-.

AND

Suit for permanent injunction restraining the defendants from selling the property less than from an amount of Rs.1,27,40,000/- without the consent of the plaintiff."

The respondent-bank filed the application for rejection of the plaint on the premise that as per the provisions of Section 17 and 18 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the suit was not maintainable as the Bank had already obtained the award in OA No.158 of 2008 passed on 17.03.2016 whereas the suit was filed on 18.10.2016.

The Court below at least should not have dismissed the suit and allowed the defendants to file the reply and ought to have framed the issues. At the best the issue of maintainability of the suit could be treated as preliminary, thus, urges this Court for setting aside the order under challenge.

I have heard learned counsel for the petitioner and appraised the paper book. I am of the view that there is no force and merit in the submissions of Mr. Arora, for, in the OA decided on 17.03.2016, the petitioner was a party. In such circumstances, the remedy for the petitioner, if any, was to assail the finding by way of an appeal but not in the manner and mode as the jurisdiction of the Civil Court is expressly barred as per the provisions of Section 17 and 18 of the aforementioned Act, which are reproduced herein below:-

17. Jurisdiction, powers and authority of Tribunals.—(1) A Tribunal shall exercise, on and from the appointed day, the *jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.*

(2) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Act.

18. Bar of Jurisdiction.—On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17."

In view of the aforementioned, both the Courts below have rightly allowed the application as the said suit was not maintainable in the eyes of law. The argument of Mr. Arora does not enable me to warrant any interference in the order under challenge as the same cannot be said to be passed without jurisdiction.

The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

April 24, 2018
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No