

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

CWP-13169-2018

Decided on: 14.11.2018

M/s Harpal Poultry Farm and others

..... Petitioners

Versus

Bank of Baroda

..... Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Rohit Suri, Advocate,
for the petitioners.

Mr. Pardeep Sharma, Advocate for
Mr. Gaurav Goel, Advocate
for the respondent.

AJAY KUMAR MITTAL, J (ORAL)

The petitioners by way of present petition filed under Article 226 of the Constitution of India seeks quashing of order dated 20.04.2018 (Annexure P-7) passed in SA No.605 of 2017 by the Debt Recovery Tribunal-III, Chandigarh (in short 'DRT') holding the petition to be not maintainable.

2. It was urged by learned counsel for the petitioners that the Tribunal while holding the petition to be not maintainable had relied upon the Full Bench judgment of Allahabad High Court in 'M/s. Hindon Forge Pvt. Ltd. And another vs. State of U.P. Through D.M. Ghaziabad and others'. According to the learned counsel, the application under Section 17 of the Securitisation and Reconstruction of Financial Assets Act and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act') was maintainable and it was not required that the borrower was to lose the physical possession of the secured asset before approaching the DRT.

3. It was not disputed by learned counsel for the parties that Civil Appeal No. 10873 of 2018 against the judgment of the Full Bench of the Allahabad High Court in 'M/s. Hindon Forge Pvt. Ltd. (Supra) has been allowed by the Apex Court by setting aside the said judgment.

4. In view of the above, impugned order dated 20.04.2018 (Annexure P-7) is set aside and the matter is remitted back to the DRT to decide the same afresh on merits in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

14.11.2018
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No