

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-21476-2017

Date of Decision: January 10, 2018

Manju Devi

.....Petitioner

Versus

Punjab National Bank and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SHEKHER DHAWAN

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Ms.Smrit Singla, Advocate for
Mr.Aalok Jagga, Advocate for the petitioner.

Ms.Geeta Sharma, Advocate for respondent No.1.
Mr.Aseem Rai, Advocate for respondent Nos.3 to 6.

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SURYA KANT, J.

The grievance of the petitioner in the instant case is against the order dated 21.02.2017 passed by Debts Recovery Tribunal-II, Chandigarh, whereby the petitioner's application for restoration of her SA which was dismissed in default has been dismissed being not maintainable and on the ground that the Tribunal has become *functus officio*. The question whether application for restoration of an 'Application' filed under Section 17(1) of the SARFAESI Act, 2002 is maintainable or not has been answered by a Coordinate Bench of this Court vide order dated 29.11.2017 passed in CWP No.14283-2017 (**Anil Kapoor vs ING Vysya Bank and others**) laying down that the application for restoration of a petition dismissed in default by

Debts Recovery Tribunal is maintainable before the Tribunal. In this view of the matter, there can be no other conclusion but to hold that the impugned order dated 21.02.2017 is unsustainable. The same is accordingly set aside and the matter is remitted to Debts Recovery Tribunal-II, Chandigarh, to decide the application on merits and in accordance with law. It shall be appreciated if the Tribunal decides the application within two months from the date of appearance of the parties.

The parties are directed to appear before the Tribunal on 12.02.2018.

Status quo be maintained till the matter is decided by the Tribunal.

**(SURYA KANT)
JUDGE**

January 10, 2018
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**(SHEKHER DHAWAN)
JUDGE**

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |