

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

**CWP No. 25310 of 2018  
Decided on : 03.10.2018**

Mohinder Singh and another

... Petitioner(s)

Versus

HDFC Bank and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL  
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

**PRESENT:** Mr. P.S. Miglani, Advocate  
for the petitioner(s).

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**AJAY KUMAR MITTAL, J. (Oral)**

The petitioners have approached this Court under Articles 226/227 of the Constitution of India, seeking quashing of order dated 20.09.2018 (Annexure P-5), passed by respondent No.4 – Debts Recovery Tribunal-III, Chandigarh and notice dated 19.05.2015 (Annexure P-1) issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (in short 'the SARFAESI Act, 2002').

2. It was not disputed by the learned counsel for the petitioners that the order impugned herein i.e. Annexure P-5 is an appealable order under Section 18 of the SARFAESI Act, 2002, before the Debts Recovery (Appellate) Tribunal.

3. Section 18 of the Act 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:*

*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.”*

4. In such a situation and keeping in view the above, as certain facts are required to be established, we dispose of the present writ petition by relegating the petitioners to avail the aforesaid alternative remedy by approaching the Debts Recovery (Appellate) Tribunal under Section 18 of the Act, in accordance with law.

**(AJAY KUMAR MITTAL)**  
**JUDGE**

**(AVNEESH JHINGAN)**  
**JUDGE**

**October 03, 2018**

*J.Ram*

*Whether speaking/reasoned: Yes/No*  
*Whether Reportable: Yes/No*