

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

CWP-30271-2018

Decided on: 30.11.2018

Joginder Pal and another

.... Petitioners

Versus

Debt Recovery Tribunal-III and others

..... Respondents

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

Present: Mr. Vivek Goyal, Advocate
for the petitioners.

AJAY KUMAR MITTAL, J (ORAL)

The petitioners have approached this Court under Articles 226/227 of the Constitution of India, assailing the order dated 16.08.2018 (Annexure P-7) passed by Debt Recovery Tribunal DRT-III, Chandigarh whereby S.A. No.52 of 2018 filed by the petitioners has been dismissed.

2. It was not disputed by the learned counsel for the petitioners that the order herein i.e. Annexure P-7 is an appealable order under Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act'), 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 as is available to them, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

30.11.2018

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No