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

**CWP No. 31142 of 2018
Decided on : 10.12.2018**

M/s Dhiman Saw Mill and others

. . . Petitioner(s)

Versus

The Authorized Officer/Chief Manager, Bank of Baroda
Ambala Cantt. and others

. . . Respondent(s)

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

PRESENT: Mr. Bhupinder Kumar Gupta, Advocate
for the petitioner(s).

****

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 16.11.2018 (Annexure P-19), passed by respondent No.4 – Debts Recovery Tribunal-II, Chandigarh. Besides above, certain other prayers have also been made.

2. It was not disputed by the learned counsel for the petitioners that the order impugned herein i.e. Annexure P-19 is an appealable order under Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (in short '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

(MANJARI NEHRU KAUL)
JUDGE

December 10, 2018
J.Ram

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