

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-15707-2019

Date of Decision: 24.07.2019

M/s Kohinoor Marketing Associates and others

. Petitioners

Vs.

The Presiding Officer, Debt Recovery Tribunal-II, and another

. Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE AVNEESH JHINGAN**

Present: - Mr.Sandeep Jain, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

The cash credit limit of ₹4.5 crore was sanctioned by respondent No.2 in April 2012 against the hypothecation of stocks and mortgage of a residential house. It is submitted that the stocks were destroyed in fire which took place in November 2012. The account of the petitioners was declared NPA on 31.03.2013. Notice under Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short 'the Act'] was issued on 26.6.2013, which was duly received by the petitioners. However, the respondent-bank filed an application under Section 14 of the Act which was allowed by the Collector. Faced with this order, the petitioners filed SA No.273 of 2013 before the Debt Recovery Tribunal-I, Chandigarh in which interim relief was declined, therefore, the petitioners filed CWP No.854 of 2014. Thereafter, the respondent-bank filed OA No.227 of 2015 under the provisions of Recovery of Debts Due to Banks and Financial Institution Act, 1993 [for short 'the Act'].

Learned counsel for the petitioners has submitted that the Tribunal has not taken into consideration the order passed by this Court in the writ petition.

We have heard learned counsel for the petitioners and after perusal of record, are of the considered opinion that the petitioners have the remedy of an appeal in terms of Section 20 of the Act before the DRT. The writ jurisdiction can be invoked by the petitioners only if the statutory remedy of appeal is not available in the Statute.

In view thereof, this petition is not maintainable in the present form in the presence of the remedy of an appeal.

Learned counsel for the petitioners prays for withdrawal of the petition with liberty to file the appeal at the first instance.

Dismissed as withdrawn.

Liberty granted.

It is needless to mention that since the petitioners have approached this Court under a misconception that the writ petition would be maintainable, therefore, in case the petitioners file an application for condonation of delay, the appellate authority may consider the application sympathetically.

(RAKESH KUMAR JAIN)
JUDGE

(AVNEESH JHINGAN)
JUDGE

24.07.2019

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*