

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

CWP-19130-2019

Date of Decision: 17.07.2019

Balbir Kaur and another

. Petitioners

Vs.

Canara Bank and another

. Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ARUN KUMAR TYAGI**

Present: - Ms.Jyoti Sareen, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioners have challenged the judgment dated 12.02.2019 passed by the Debts Recovery Tribunal-I, Chandigarh and the order 15.05.2019 by which the application filed under Order 9 Rule 13 of the CPC read with Section 22 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 [for short 'the Act'] for setting aside the aforesaid *ex parte* judgment dated 12.02.2019 were dismissed.

Learned counsel for the petitioners is fair enough to admit that the impugned orders are appealable to appeal in terms of Section 20 of the Act. She has however submitted that the petitioners have approached this Court because the remedy of appeal is conditional as the petitioners have to deposit 50% of the amount claimed by the respondent-bank which otherwise can be reduced to 25% if the appellate authority is satisfied with the reasons assigned.

After hearing learned counsel for the petitioners and taking into consideration the facts and circumstances of the case, we are of the

considered opinion that the writ petition can be invoked only when there is no statutory remedy available. The writ petition is an extraordinary jurisdiction whereas the appeal is an ordinary jurisdiction provided in the Statute. Thus, the extraordinary jurisdiction provided under the Constitution of India cannot be exercised in the presence of statutory remedy available to the petitioners. It is needless to mention that the petitioners may file an appropriate application along with memorandum of appeal before the appellate authority to project their difficulty/hardship in depositing 50% of the amount for the purpose of entertaining the appeal which can be sympathetically considered by the appellate authority, in accordance with law.

In view of the above, the present petition is hereby disposed of.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

17.07.2019
Vivek

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