

2023:PHHC:049013-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-873-2022 (O&M)
Date of Decision: 11.04.2023

Anil Kumar Malhotra

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Akhilesh Vyas, Advocate, for the petitioner.

Mr. Abhay Pal Singh Gill, D.A.G., Punjab.

Mr. Akshay Bhan, Senior Advocate, with
Mr. Aman Bansal, Advocate, and
Mr. Shaurya Khanna, Advocate,
for respondent No. 2.

G.S.SANDHAWALIA, J. (ORAL)

1. There is no dispute that the matter had been taken by respondent No. 2 to the Apex Court against the notice of motion order dated 17.01.2022, whereby interim protection had been granted by this Court while issuing notice of motion. The said order has been set aside on 27.03.2023 in SLP (C) 17335 of 2012, titled **Authorised Officer Kotak Mahindra Bank vs. Anil Kumar Malhotra and another.** The said order reads as under:-

“1. Leave granted.

2. Heard learned counsel for the parties.

3. This appeal takes exception to the judgment and order dated 17.01.2022 passed by the High Court of Punjab and Haryana at Chandigarh in CWP No. 873 of 2022.

4. We are of the considered view that the High Court

2023:PHHC:049013-DB

was not justified in passing the impugned judgment and order.

5. The impugned judgment and order has the effect of scuttling the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

6. If the appellant was aggrieved by an order passed under Section 13(2) of the the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the appellant had an alternate remedy under the provisions of the said Act.

7. In that view of the matter, the impugned judgment and order passed by the High Court is quashed and set aside and the appeal is allowed.

8. Needless to state that the order passed herein would not affect the right of the appellant to take recourse to the alternate remedy.

9. Pending applications, if any, stand disposed of.”

2. Keeping in view the above, counsel for the petitioner has also not in a position to argue the case on merits.

3. Accordingly, the writ petition is disposed of relegating the petitioner to avail of his alternative remedy before the Tribunal in terms of the order of the Apex Court.

4. This Court had been approached with a categorical averment made in paragraph 25 of the petition that there was no Presiding Officer in the Debt Recovery Tribunal, Chandigarh.

5. In such circumstances, if an appropriate application under Section 17 of the Act is filed within a period of 02 weeks from today, the Tribunal shall hear the case on merits.

6. All pending miscellaneous applications stand disposed of and interim order stands vacated.

(G.S. SANDHAWALIA)
JUDGE

April 11, 2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No