IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(144) **CWP-5486-2023**
Decided on: 20.03.2023

M/s Pushkar Knit

....Petitioner(s)

Versus

Reserve Bank of India and another

.... Respondent(s)

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

Present: Mr. Naveen Batra, Advocate for the petitioner(s).

Ms. Manjari Joshi, Advocate for the respondent-Bank.

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G.S. Sandhawalia, J.(Oral)

A perusal of the paper-book would go on to show that Securitization Application No.142 of 2022 under Section 17 (2) of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') was also filed, which has been dismissed on 09.11.2022 (Annexure P-9), wherein it has been recorded that now the total outstanding is of ₹13 crores. Resultantly, it has been noticed that there is no illegality shown by the applicant in the order of the District Magistrate, Ludhiana.

It has been brought to our notice that CWP No.265 of 2023 'Indian Bank, Ludhiana Vs. District Magistrate and another' has also been filed by the respondent-Bank.

Counsel has tried to convince us that the matter be tagged alongwith the said case.

Keeping in view the above, we are of the considered opinion that remedy of appeal is provided against the order of the Debts Recovery Tribunal-III, Chandigarh under Section 18 of the SARFAESI Act, which reads as under:-

> "**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 along with 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."

The Apex Court in **Varimadugu Obi Reddy Vs. B. Sreenivasulu and others, 2023 (1) RCR (Civil) 34** while discussing an similar issue held that the orders passed by the Debts Recovery Tribunal are appealable and it is not for the Writ Court to exercise its extra-ordinary writ jurisdiction under Articles 226/227 of the Constitution of India.

Resultantly, we are of the considered opinion that the present writ petition is not maintainable under Articles 226/227 of the Constitution of India and the same is, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

20.03.2023
Naveen

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