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

(143) **CWP-7150-2023**
Decided on : 11.04.2023

Kapil Goyal

……Petitioner(s)

Versus

Reserve Bank of India & others

……Respondent(s)

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

Present: Mr.Kanwar Abhay Singh, Advocate for the petitioner (s).

Mr.Harsh Chopra, Advocate, for the respondent-Bank.

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G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition, filed under Article 226 of the Constitution of India, is to the order dated 27.03.2023 (Annexure P-13) passed by the DRT-III, Chandigarh whereby Securitization Application No. 77/2022 had been dismissed on the ground of limitation. It had been noticed that the possession notice is dated 19.01.2022 (Annexure P-7) and on account of the 45 days limitation prescribed and keeping in view the indulgence granted by the Apex Court, it was noticed that the SA was filed only on 16.05.2022 which was barred by 21 days. The aspect of the petitioner having approached this Court in CWP-2520-2023 and having earned adverse comments on 07.02.2023 on account of concealment of facts regarding the pendency of SA was also kept in mind. It was also noticed that the application for recall of the order was dismissed on 20.02.2023 (Annexure P-12).

Counsel for the respondent-Bank has also pointed out that as per the possession notice dated 19.01.2022 (Annexure P-7), Rs.71,05,270.27 is also due.

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

11.04.2023
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No