

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

**CWP-2076-2024
Date of Decision: January 31, 2024**

VISHAV VIJAY SINGH AND ANR

..... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MS. JUSTICE AMARJOT BHATTI**

Present: Mr. Karan S. Gill, Advocate for the petitioners.

Ms. Shivani Sharma, DAG, Punjab.

Mr. Raghav Garg, Advocate for the respondent – Bank.

LISA GILL, J.

1. Challenge in this writ petition is to order dated 08.01.2024 passed by learned DRT-III, Chandigarh whereby application filed by petitioners seeking condonation of delay of 45 days in filing the SA in question has been dismissed, followed by necessary consequences of non-acceptance of SA. Challenge is also made to proceedings initiated against petitioners under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’).

2. Admittedly, remedy of appeal is available to petitioners in terms of Section 18 of SARFAESI Act though it is incorrectly declared in para 27 of this writ petition that petitioners do not have any remedy of appeal/revision except to file the present writ petition. Interference in present writ petition is not called for in the given factual matrix. Gainful reference in this regard can be made to

judgment of Hon'ble the Supreme Court in **Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1) R.C.R.(Civil) 34**, wherein it has been held as under:-

“34. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of predeposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under 2nd proviso to Section 18 of the Act 2002.”

3. Writ petition is, accordingly, dismissed with liberty to petitioners to avail remedy available to them in accordance with law.

4. It is clarified that there is no expression of opinion on merits of the matter.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

January 31, 2024
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No