

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2772-2024

Date of Decision: 07.02.2024

Surjit Kaur

..... Petitioner

Versus

The Debts Recovery Tribunal III and others

..... Respondents

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

Present: Mr. Karan Singla, Advocate for the petitioner.

LISA GILL, J.(oral)

1. Prayer in this writ petition is for setting aside order dated 23.01.2024 (Annexure P-1) passed by learned Debts Recovery Tribunal-III, Chandigarh, whereby application filed by present petitioner for setting aside *exparte* order dated 07.11.2019 has been dismissed.

2. Admittedly, impugned order dated 23.01.2024 is an appealable order, though, it is declared in writ petition in para no. 23 that petitioner does not have any other efficacious remedy except to file present writ petition. Faced with the above, learned counsel for petitioner submits that petitioner is unable to deposit statutory amount in terms of Section 18 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act, therefore, present writ petition should be entertained. Moreover, a fraud has been committed upon her, projecting her to be guarantor of loan account in question, whereas, she has never stood guarantee for the same.

3. Be that as it may, we do not find the above to be an extraordinary circumstance which calls for interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. Gainful reference in this regard

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.”

4. Keeping in view the facts and circumstances, this writ petition is dismissed with liberty to petitioner to avail remedy/remedies available to her in accordance with law.

5. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

07.02.2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No