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

CR-7528-2024 (O&M)

Date of Decision : 20.12.2024

Jyoti

... Petitioner(s)

Versus

State of Punjab & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Iqbal Singh Ratta, Advocate for the petitioner.

Mr. D.K. Singla, Advocate for the respondent No.3.

Mr. Pawan Kumar, DAG Punjab.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed by the petitioner under Article 227 read with Article 215 of the Constitution of India for quashing of the order dated 18.11.2024 passed by the Presiding Officer, Debts Recovery Tribunal-III, Chandigarh (hereinafter referred to as 'DRT') rejecting the application for restoration of SA No.318 of 2024, which was dismissed in default on 11.11.2024. Challenge is also laid to the order dated 30.07.2024 passed by the respondent No.4 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as also to the eviction notice dated 21.11.2024 issued by the respondent No.5.

2. Learned counsel for the petitioner, at the outset, when asked to show as to how the present revision petition was maintainable in view of an alternative remedy available to the petitioner i.e. by way of approaching the

Debts Recovery Appellate Tribunal (DRAT), the learned counsel would contend that the order passed by the DRT is illegal and without jurisdiction and, hence, this Court would have jurisdiction under Article 227 of the Constitution of India. In support of his argument he has relied upon the judgment of this Court in the case of **Gaurav Singh Vs. Internation Asset Reconstruction Company Private Limited & Ors. [CR No.2975 of 2019 decided on 06.12.2023]** whereby the revision petition in which orders passed by the DRT as well as DRAT was entertained.

3. Mr. D.K. Singla, Advocate has put in appearance on behalf of the respondent No.3 has placed reliance upon the judgment of a Division Bench of this Court in the case of **Sudha Gupta Vs. PNB Housing Finance Limited [CWP No.22351 of 2021 decided on 23.05.2024]** to contend that the High Court would not have jurisdiction to entertain the present petition.

4. Heard the learned counsel for the parties.

5. In the present case the petitioner by way of the present revision petition has sought to challenge the order dated 18.11.2024 rejecting the application filed by her for restoration of SA No.318 of 2024, which was dismissed in default on 11.11.2024, on the ground that the same is perverse and without jurisdiction and against all principles of natural justice. Also under challenge is the order dated 30.07.2024 passed by the respondent No.4 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the eviction notice dated 21.11.2024 issued by the respondent No.5.

6. The argument of the learned counsel for the petitioner that the present revision petition would be maintainable before this Court is sans any

merit. Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 reads as under :

“18. (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.”

Under this provision any person aggrieved by an order made or deemed to have been made by the Tribunal under the Act may prefer an appeal to the Appellate Tribunal having jurisdiction in the matter and, therefore, a special provision has been laid down for an aggrieved person to pursue the remedy,

if aggrieved, by any order of the Tribunal. Though counsel for the petitioner has urged that the High Court under Article 227 of the Constitution of India has powers of Superintendence over the Debt Recovery Tribunals and Debt Recovery Appellate Tribunals but the same is purely to keep a close watch on their functioning and does not delegate to the High Courts ordinarily the powers to entertain revisions or writs arising out of orders passed by the Debt Recovery Tribunal. The legislative intent of the Recovery of Debts and Bankruptcy Act, 1993 and the SARFAESI Act does not allow the Courts to entertain any writ petitions or revision petitions challenging an order passed by the Tribunal unless exceptional circumstances are shown.

7. The Hon'ble Supreme Court in a plethora of cases has laid down that the petition under Article 226 of the Constitution of India could not be entertained where there is availability of an alternative remedy except in exceptional circumstances. In the case of **PHR Invent Educational Society Vs. UCO Bank & Ors. [(2024) 6 SCC 579]** the Hon'ble Supreme Court held as under :

“29. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

(i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;

(ii) it has acted in defiance of the fundamental principles of judicial procedure;

(iii) it has resorted to invoke the provisions which are repealed; and

(iv) when an order has been passed in total violation of the principles of natural justice.

30. *It has however been clarified that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.*

31. *Undisputedly, the present case would not come under any of the exceptions as carved out by this Court in the case of Chhabil Dass Agarwal (supra).*

32. *We are therefore of the considered view that the High Court has grossly erred in entertaining and allowing the petition under Article 226 of the Constitution.*

33. *While dismissing the writ petition, we will have to remind the High Courts of the following words of this Court in the case of Satyawati Tondon (supra) since we have come across various matters wherein the High Courts have been entertaining petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective alternative remedy:*

"55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."

8. The view taken by the Hon'ble Supreme Court in the case of **PHR Invent Educational Society** (supra) reiterates the position while referring to earlier judgments in **Union Bank of India Vs. Satyawati**

Tandon & Ors. [(2010) 8 SCC 110] and M/s South Indian Bank Ltd. & Ors. Vs. Naveen Mathew Philip & Anr. [2023 (1) RCR (Civil) 771].

9. Learned counsel for the petitioner has not been able to show any jurisdictional error as exercised by the DRT while passing the impugned order. Even the argument of the learned counsel for the petitioner that there has been violation of principles of natural justice is not made out in the present case. The judgment relied upon by the learned counsel for the petitioner in the case of **Gaurav Singh** (supra) would not come to his aid as the same is distinguishable on facts. In that case the petitioner was a guarantor and not the principal borrower and further he had approached this Court after exhausting his remedy of appeal before the Appellate Tribunal.

10. In view of the above, the present revision petition is dismissed being not maintainable with liberty to the petitioner to avail her remedy as available in law. Pending applications, if any, also stand disposed off.

20.12.2024
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO