
(2005) 05 AHC CK 0020
In the Allahabad High Court
Case No : Writ Petition No. 1210 (M/S) of 2004

Virendra Singh

APPELLANT

Vs

The Debt Recovery Tribunal and Others

RESPONDENT

Date of Decision : 18-05-2005

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 2, Order 6 Rule 17, Order 8 Rule 6A, 115, 116A
Constitution of India, 1950 — Article 226, 227
Debts Recovery Tribunal Rules — Rule 19, 60
Income Tax Rules, 1962 — Rule 15, 15(1), 52, 53, 54
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 19, 20, 20(1), 20(2), 30

Citation : (2005) 4 BC 268

Hon'ble Judges : Devi Prasad Singh, J

Bench : Single Bench

Advocate : Prashant Chandra, for the Appellant; Swayambhoo Chandranshul, N.K. Seth and Sharad Dwivedi, for the Respondent

Final Decision : Dismissed

Judgement

Devi Prasad Singh, J.—M/s. Vishwa Polly Processors Pvt. Ltd. (in short hereinafter referred as the Company) was granted Cash Credit Hypothecation Limit (in short CC Limit) by the State Bank of India, Cantt. Branch, Kanpur for utilisation of fund during business transaction. When the said company failed to pay the dues, respondents' Bank sent a demand notice for the payment of dues but it could not be liquidated by the company. Feeling aggrieved a regular suit bearing No. 331 of 1997 was filed for recovery of a sum of Rs. 29,89,578 plus interest. On promulgation of Recovery of Debt Dues to Banks and Financial Institutions Act, 1993 (in short hereinafter referred as the Act), the suit was transferred to Debt recovery Tribunal, Jabalpur, then to Allahabad.

2. By judgment and order dated 6th September, 2002 the suit was decreed in favour of State Bank of India, Cantt. Branch, Kanpur for an amount of Rs.

29,89,578/-. In consequence thereof, a recovery certificate No. 299 dated 6.9.2002 was issued by Presiding Officer, Debt Recovery Tribunal, Allahabad for the recovery of decretal amount against the company. By order dated 21.3.2003 the Debt Recovery Tribunal, Allahabad had passed an order for attachment of immovable property of the Company. In pursuance to the provision for recovery of tax under the Income Tax Act, 1961 (in short hereinafter referred as the Rule) Form 16 was issued for attachment of immovable property of the company bearing House No. B-21, Indira Nagar, Lucknow. Admittedly, the Rule for recovery of dues is appendix as Second Schedule of the Income Tax Apt, 1961.

3. By order dated 7th March, 2002 M/s. Vishwa Polly Processors Pvt. Ltd. and others were directed to appear before Recovery Officer of Debt Recovery Tribunal, Allahabad on 7th March, 2003 for setting the terms of proclamation of sale. According to petitioner's Counsel in spite of service of notice none appeared before the recovery officer on 7.3.2003. The cost of the house in accordance to valuation report prepared by the valuer of the State Bank of India dated 9th March, 2003 was Rs. 34,93,900/-. According to petitioner's Counsel, since the said valuation was not affixed on the basis of principles adopted in making valuation for distress sales, the Recovery Officer has fixed the reserve price to the tune of Rs. 22.0 lacs. The reserve price fixed, by the Recovery, Officer was not challenged by either of the parties or any interested persons, hence, it attains finality.

4. On 9th June, 2003, the Recovery Officer had passed an order for auction or sale of the mortgaged property i.e. House No. B-217, Indira Nagar, Lucknow with the State Bank of India, Cantt. Branch, Kanpur. In consequence thereof the proclamation of sale was issued on 9th June, 2003 and advertisement was published in the newspaper Dainik Jagran, Lucknow Edition relating to the auction of said property on 30th July, 2003. Admittedly, the auction had taken place on 30th July, 2003 by the Recovery Inspector appointed by the Recovery Officer. Petitioner and five other persons participated as bidders in the auction. The petitioner's bid was for Rs. 22,50,000/- and being highest one the Recovery Officer had accepted the same. The document relating to the acceptance of bid was signed by Recovery Officer as well as. Shri A.K. Agarwal, the then Branch Manager of State Bank of India, Cantt. Branch, Kanpur. Immediately after finalisation of auction in compliance of relevant terms and conditions petitioner had deposited 25 per cent of the bid amount, which was accepted by the Recovery Officer. According to petitioner's Counsel on 13.8.2003 petitioner had deposited the remaining entire bid amount along with pounding charges, i.e. within the stipulated period of 15 days from the date of auction and the same was taken on record by the Recovery Officer. The judgment-debtor Mr. Ashok Kumar Verma had filed an objection to set aside the auction and sale. However, he had not deposited the amount specified in the proclamation of sale which is mandatory under Sub-rule 2 of Rule 60 of the Second Scheduled of Income Tax Act referred hereinabove. For convenience Rule 60 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 is reproduced as under.

"60. Application to set aside sale of immovable property on deposit--(1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing,

(a) the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered with interest thereon at the rate of fifteen per cent per annum, calculated from the date of the proclamation of sale to the date when the deposit is made, and

(b) for payment to the purchaser as penalty, a sum equal to five per cent of the purchase-money, but not less than one rupee.

(2) Where a person makes an application under Rule 61 for setting aside the sale of his immovable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this rule."

5. On 19th August, 2003 the Recovery Officer without issuing any notice to the auction purchaser passed an ex parte order by setting aside the auction sale dated 30th July, 2003 which was settled in petitioner's favour, on the ground of inadequacy of price. Copy of order dated 19.8.2003 was attached as Annexure-6 to the writ petition. The order dated 19.8.2003 has been impugned by the petitioner in Misc. Appeal No. 154 of 2003 filed on 9.9.2003 before the Presiding Officer, Debt Recovery Tribunal, Allahabad. On 10th September, 2003 the Debt Recovery Tribunal, Allahabad had given liberty to the petitioner to make a mention before the Recovery Officer relating to the pendency of appeal. The judgment-debtor had filed an application before the Presiding Officer, Debt Recovery Tribunal, Allahabad for impleadment as a party in the said appeal. According to learned Counsel for the petitioner Mr. Prashant Chandra the judgment-debtor could not have been made party in view of provision contained in Sub-rule 1 of Rule 15 of the Rules. For convenience Rule 15 of the Rules is reproduced as under:

"Who may be joined as respondents--(1) In an appeal by a person other than Bank or financial institution, the Bank or financial institution who has to recover any debt from any person u/s 19 of the Act, before the Tribunal against whose order the appeal has been preferred, shall be made the respondents to the appeal.

(2) in an appeal by the Bank or a financial institution the other party shall be made the respondents to the appeal."

6. On account of pendency of appeal before the Tribunal on 12th September, 2003 petitioner had moved an application for stay of further proceedings relating to the sale of House No. B-217, Indira Nagar, Lucknow. However, the Recovery Officer had rejected the petitioner's application for stay of further auction and fixed 15.10.2003 for adjudication of fresh term of sale. Hence, on 19th

September, 2003 the petitioner had moved another application before the Debt Recovery Tribunal, Allahabad for stay of proceedings before the Recovery Officer. The Debt Recovery Tribunal, Allahabad by order dated 22.9.2003 had stayed the proceedings pending before the Recovery Officer till disposal of appeal. Copy of the order dated 22.9.2003 passed by the Debt Recovery Tribunal, Allahabad has been attached as Annexure-7 to the writ petition. The Debt Recovery Tribunal, Allahabad on 1.12.2003 had allowed the application of judgment-debtor for impleadment as a party. Accordingly the judgment-debtor was impleaded as respondent No. 3 in the appeal.

7. According to petitioner's Counsel when the proceeding before the Recovery Officer was stayed by Debt Recovery Tribunal, Allahabad, by order dated 22.9.2003 on failing to get their objective fulfilled the State Bank of India had moved an application on 4.2.2004 before the Appellate Bench of Debt Recovery Tribunal, Allahabad for seeking permission to enter into compromise with respondent No. 3. The Presiding Officer, Debt Recovery Tribunal, Allahabad by impugned order dated 23.2.2004 as contained in Annexure-1 to the writ petition had permitted the respondents State Bank of India to finalise the compromise with the borrower (respondent No. 3 before the Tribunal) in accordance to guidelines of Reserve Bank of India. Feeling aggrieved by the order passed by the Debt Recovery Tribunal, Allahabad the impugned order dated 23rd March, 2004 petitioner had approached this Court under Article 227 of the Constitution of India. Initially, by an interim order the proceeding before the Recovery Officer was stayed by this Court. It appears that in pursuance to permission granted by the Debt Recovery Tribunal, Allahabad the respondents State Bank of India had moved an application dated 24th March, 2004 before the Recovery Officer, Debt Recovery Tribunal, Allahabad and prayed that the compromise of the recovery may be recorded. By an order dated 25th March, 2004 the Recovery Officer, Debt Recovery Tribunal, Allahabad held that application of the Bank was not maintainable. On 31st March, 2004 the certificate was issued by State Bank of India, Cantt. Branch, Kanpur certifying that compromise has been settled subject to payment of Rs. 24,00,000/- on 26th March, 2004. Thereafter, respondents Bank had moved an application dated 4th April, 2004 before the Appellate Bench of Debt Recovery Tribunal, Allahabad with the prayer that compromise entered between the judgment-debtor and Bank may be recorded.

8. While assailing the impugned order dated 23.2.2004, learned Counsel for the petitioner Mr. Prashant Chandra had raised following grounds:

(1) When the Debt Recovery Tribunal, Allahabad had decreed the suit and the Recovery Officer had proceeded to recover the dues in accordance with law, it was not open to the Bank or the judgment-debtor to enter into the compromise.

(2) Under Rule 60 of the Second Scheduled of Income Tax Act application to set aside auction and sale of the immovable property could not have been entertained by the Recovery Officer unless the judgment-debtor would have deposited the entire auction amount with interest at the rate of 15 per cent for

payment to the purchaser. Since the petitioner had not deposited the amount in pursuance to Rule 60 the order passed by the Recovery Officer to set aside the auction and sale was substantially illegal and not tenable under law.

(3) By the impugned order dated 23.2.2004 the Debt Recovery Tribunal, Allahabad had permitted to finalise the compromise with the borrower strictly in accordance with guidelines of Reserve Bank of India and to that extent the interim order dated 22.9.2003 was relaxed. The Debt Recovery Tribunal, Allahabad further directed that respondents Bank shall furnish the full particulars of compromise under the guidelines of Reserve Bank of India. According to petitioner's Counsel instead of following the Reserve Bank of India guidelines a compromise was entered into between the Bank and the borrower with oblique motive as per NPA guidelines.

(4) A decree of the competent Court like Debt Recovery Tribunal, Allahabad can, not be modified, annulled or set aside and amount also cannot be enhanced or reduced by compromise after finalisation of the decree.

(5) According to petitioner's Counsel the compromise entered into between the judgment-debtor and respondents Bank had got no approval from the higher authorities which is mandatory under the Reserve Bank of India guidelines as well as other relevant provision. Petitioner's Counsel had further submitted that the Branch Manager A.K. Agarwal had acted with mala fide and oblique motive to extend undue help to the judgment-debtor. Feeling aggrieved applications were also moved for appropriate action against the Branch Manager.

(6) The parties had entered into compromise in their disregard of impugned order itself. Accordingly, the subsequent event shows mala fide exercise of power by the Recovery Officer in collusion with the Bank authorities and judgment-debtor.

(7) In one other case DRC 167 of 2002 Oriental Bank of Commerce Branch Manager M.G. Marg, Agra, Recovery Officer, Debt Recovery Tribunal, Lucknow, the Debt Recovery Tribunal had allowed the appeal on similar ground as raised by the petitioner. Copy of judgment and order dated 26.8.2003 filed by Debt Recovery Tribunal while deciding the appeal No. 10 of 2003 has been filed as Annexures-9 to the writ petition. The appellate judgment shows that after considering the Rules 52 to 63 of the Second Schedule of Income Tax Act, the Debt Recovery Tribunal had given a finding that in the event of non-compliance of Rule 60 and another provisions Recovery Officer has got no right to cancel the bid more so in an arbitrary manner. Accordingly, the submission is, the Debt Recovery Tribunal does not have right to adopt different standard in identical cases while adjudicating & dispute, The judgment of coordinate Bench of the Tribunal is binding.

9. In support of aforementioned contention Mr. Prashant Chandra, learned Counsel for the petitioner had relied upon the judgments reported in Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Others, Harbanslal Sahnia

and Another Vs. Indian Oil Corpn. Ltd. and Others, Harbanslal Sahnia and Anr. v. Indian Oil Corporation and Ors.; (2004)5SCC793 , S.J.S. Business Enterprises (P) Ltd. Vs. State of Bihar and Others, , ABL International Ltd. and Another Vs. Export Credit Guarantee Corporation of India Ltd. and Others, , Surya Dev Rai Vs. Ram Chander Rai and Others, , Roshan Deen Vs. Preeti Lal, , Achutananda Baidya Vs. Prafulla Kumar Gayen and others, , Allied Chemical Laboratories Vs. Presiding Officer, Debt Recovery and Another, Allied Chemicals Laboratories v. Presiding Officer, Debt Recovery, Tribunal, Cuttack and Anr.; II (1999) BC 57 (SC) : 1999 SOL Case No. 354, The Industrial Credit and Investment Corporation of India Ltd. v. Graeco Industrial Ltd.

10. On the other hand, learned Counsel for the opposite parties had raised preliminary objection that against the impugned order statutory appeal lies u/s 20 of the Act, The further submission of Mr. Swayambhoo Chandranshul and Mr. Sharad Dwivedi holding brief of Mr. D.P. Dwivedi, learned Counsel for the opposite parties is that Debt Recovery Tribunal has got right to permit for compromise at any time before the enforcement of decree. According to learned Counsel for opposite parties, since for relief No. 2 the petitioner had already filed an appeal u/s 30 of the Act (against the order dated 19.8.2003 passed by Recovery Officer) the present writ petition is not maintainable under Article 227 of the Constitution of India. Learned Counsel for the opposite parties had proceeded to submit that unless sale is not confirmed Bank has got right to redemption in view of settled law by Apex Court and this Court.

11. Learned Counsel for the opposite parties had relied upon the judgment reported in Surya Dev Rai Vs. Ram Chander Rai and Others, Surya Dev Rai v. Ram Chander Rai; (2000) 7 SCC 241 U. Nilan Vs. Kannayyan (Dead) Through Lrs., , Punjab National Bank Vs. O.C. Krishnan and Others, , National Bank Ltd. Vs. Presiding Officer, D.R.T. and Others, Sushil Kumar Jaiswal and another Vs. Bank of India, , Mohan Amba Prasad Agnihotri and Others Vs. Bhaskar Balwant Aher (D) Through I.Rs., AIR 1975 1297 (SC) ; Bathumal Raichand Oswal v. Laxmibai R. Tarta and Anr., (2004) 4 Educational and Service Cases (All) 2366, Naring Bahadur Singh and Anr. v. Din Dayal Upadhyaya and Ors.; (2004) 4 EdS Cs2037 Munna Ram Vs. State of Rajasthan, Arjun Singh Vs. A.D.J. and Another, Arjun Singh v. A.D.J. Behror and Anr.; 2005 (23) LCD 124 (Ald.), Dwarka Prasad Agarwal (D) by Lrs. and Another Vs. Ramesh Chandra Agarwala and Others, Dipak Chandra Ruhidas Vs. Chandan Kumar Sarkar, , Shri Bimal N. Desai Vs. State of Karnataka and Others, , Bimal N. Desai v. State of Karnataka and Ors.; 2003 (VII) SCC 521, Minor Irrigation Rural Engineering Services and Ors. v. Sahngoo Ram Arya and Anr.; judgment and order dated 11.3.2004 in W.P. No. 543 (MS) 2004, Seth Chand Ratan Vs. Pandit Durga Prasad (D) by Lrs. and Others, , State of Punjab and Others Vs. Punjab Fibres Ltd. and Others, State of Punjab and Ors. v. Punjab Fibres Ltd. and Ors. 2005(23) LCD 476 , New Kenilworth Hotels (P) Ltd. Vs. Ashoka Industries Ltd. and Others, Narandas Karsondas Vs. S.A. Kamtam and Another, Maganlal Vs. Jaiswal Industries, Neemach and Others, Maganlal v. Jaiswal Industries, Neemach and Ors.; 2004

(22) LCD 382, Achaldas Durgaji Oswal (Dead) Through LR. v. Ramvilas Gangabisan Hethi (Dead) Through LR. and Ors.; 2004(22) LDC 1093, Kanpur Agra Transport Co. Kanpur and Ors. v. Amarjeet Singh and Ors.; 2005(23) LDC 459, Raj Kumar Roy Vs. Mritunjoy Das, Tara Singh (Since Deceased) through Lrs. and Others Vs. Kehar Singh and Others, Ahmed Bin Salah Vs. Mohd. Basha, ; Harinagar Sugar Mills Ltd. Vs. M.W. Pradhan, Lakshmi Narayanan Vs. S.S. Pandian,

12. On the basis of case laws referred hereinabove the submission of learned Counsel for the opposite parties is that since against the cancellation of sale dated 19.8.2003 petitioner had preferred an appeal u/s 30 of the Act and which is pending in the same manner petitioner should file an appeal u/s 20(1) of the Act against the subsequent impugned order dated 23.2.2004. Respondents Counsel further submits that in view of Order 21 Rule 2 of the CPC the judgment-debtor was entitled to enter into compromise with the Bank. However, no illegality could be pointed out by the opposite parties in the procedure adopted by the Recovery Officer to auction the property in question in favour of petitioner. The further submission of respondents Counsel is that the petitioner has got no locus standi to challenge the impugned order of the compromise entered between the parties.

13. Before entering into the merit of the case since a question relating to the maintainability of writ petition has been raised by the petitioner it is necessary to consider this issue first so that in case the controversy is relegated to appellate authority, then the appellate authority will be able to decide the appeal on merit without being influenced by judgment of this Court.

14. This Court has got wide power to exercise jurisdiction under Articles 226/227 of the Constitution of India even if an alternative remedy is available to the petitioner, in case no interference will cause to serious miscarriage of justice or the authority or trial Court had exercise jurisdiction which was not vested in it, Surya Dev Rai v. Ram Chander Rai and Ors. (supra). The argument advanced by Mr. Prashant Chandra relating to the entertainment of writ petition vis-a-vis availability of alternative remedy is a settled proposition of law.

15. In a case reported in Sadhana Lodh Vs. National Insurance Company Ltd. and Another, Hon'ble Supreme Court held that where remedy of appeal is not available to aggrieved person against the order passed by District Judge then such person may prefer a revision before High Court u/s 115 of the Code of Civil Procedure. A writ under Article 226 of the Constitution of India can be filled only in case of revisional remedy is not available to an aggrieved party.

For convenience relevant portion from the case of Sadhana Lodh (supra) is reproduced as under:

"... this being the legal position, the petition filed under Article 227 of the Constitution by the insurer was wholly misconceived. Where a statutory right to file an appeal has been provided for, it is not open to the High Court to entertain

a petition under Article 227 of the Constitution. Even if where a remedy by way of an appeal has not been available to the aggrieved person is to file a revision before the High Court u/s 115 of the Code of Civil Procedure. Where remedy for filing a revision before the High Court u/s 115, CPC has been expressly barred by a State enactment, only in such case a petition under Article 227 of the Constitution would lie and not under Article 226 of the Constitution. As a temporary injunction and an appeal against refusal to grant injunction has been rejected, and a State enactment has barred the remedy of filing revision u/s 115 of the Code of Civil Procedure, in such a situation a writ petition unreserved under Article 227 would lie and not under Article 226 of the Constitution. Thus, where the State Legislature has barred a remedy of filing a revision petition before the High Court u/s 115 Code of Civil Procedure, no petition under Article 226 of the Constitution would lie for the reason that a mere wrong decision without anything more is not enough to attract jurisdiction of the High Court under Article 226 of the Constitution."

16. In one another case reported in (2003) 9 SCC 219, Sambhavnath Digambar Jain v. Mohanlal and Ors., where the application under Order 6 Rule 17 and Order 8 Rule 6-A of the CPC was rejected by the trial Court declining to permit the defendant to amend the written statement and counter-claim, it was held by Hon"ble Supreme Court that such application can be challenged by invoking revisional jurisdiction.

For convenience Paras 3 and 4 of the judgment of Hon"ble Supreme Court in Sambhavnath"s case (supra) is reproduced as under:

"The respondents herein filed a suit against the appellant for setting aside the said order of the Registrar. On 13.9.1982, the appellant filed written statement wherein an averment was made that the portion of property where the girl"s school was running was the property of the Trust. It may be mentioned that the Registrar did not included the said portion of the school as Trust property. On 15.9.1982, the appellant filed an application under Order 6 Rule 17 and Order 8 Rule 6-A of the CPC read with Section 151 of the CPC and sought to incorporate in its counter-claim the said school as a Trust property. On 15.9.1982, the appellant filed an application under Order 6 Rule 17 and Order 8 Rule 6-A of the CPC read with Section 151 of the CPC and sought to incorporate in its counter-claim the said school as a Trust property by way of an amendment to its written statement. The said application was rejected by the trial Court and being aggrieved by the said order, the appellant filed a revision which was dismissed as not maintainable. That is how the parties are before us.

Learned Counsel for the appellant has urged that the order passed by the Trial Court was revisable and view taken by the High Court is erroneous. We are of the view that the High Court for ends of justice ought to have considered the application on merit keeping in view Rule 6-A of Order 8 of the CPC and in accordance with the law. We, therefore, hold that the above order rejecting the application of the appellant by the trial Court was revisable."

17. Keeping in view the law settled by Apex Court referred hereinabove and relied upon by the parties undoubtedly this Court has got jurisdiction to entertain a writ petition. In the present case admittedly u/s 20 of the Act statutory appeal lies. For convenience Sub-section 1 of Section 20 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 is reproduced as under:

"Appeal to the Appellate Tribunal--(1)

Save as provided in Sub-section (2), any person aggrieved by an order made, or deemed to have been made, by a Tribunal under this Act, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter."

18. Apart from availability of statutory appellate remedy there is one more reason comes in the way to entertain the present writ petition. Against the order of cancellation of sale dated 19.8.2003 passed by Recovery Officer, admittedly petitioner had preferred an appeal, which is pending. The relief No. 2 relates to said controversy. Any observation or interference by this Court under writ jurisdiction will amount to interference with a proceeding pending before the appellate authority. Even if the present writ petition is entertained for relief No. 1, the observation of finding given by this Court shall affect the decision of appeal pending before the appellate authority. Once a person files an appeal against an order by exercising statutory appellate jurisdiction and the appellate authority entertains the appeal to decide the same on merit, then it shall not be open to such person to challenge the same order under Articles 226/227 of the Constitution of India, under writ jurisdiction, unless the appellate authority had entertained the appeal without jurisdiction. The jurisdiction of appellate authority has not been questioned by the petitioner.

The principle of law to this extent may be very well drawn from the Division Bench judgment of this Court, Lal Harsh Deo Narain Singh and Anr. v. State of U.P. and Ors. (supra), and judgment of Apex Court, State of Punjab and Ors. v. Punjab Fibers Ltd. and Ors. (supra).

19. Since, by the impugned order the Debt Recovery Tribunal had granted permission to settle the dispute or compromise in view of RBI guidelines which has got direct nexus with the pending controversy before the appellate authority, it shall not be proper to interfere with the impugned order under the writ jurisdiction. The substantial illegality, infirmity or binding nature of other judgment of the Tribunal under similar circumstance can very well be considered by appellate authority by entertaining the appeal u/s 20 of the Act. The Apex Court in a case Dipak Chandra Ruhidas v. Chandan Kumar Sarkar (supra), held that the power of appellate Court is much wider than power conferred to High Court or Supreme Court. The appellate authority has got wide power to go into, interfere and decide the controversy in question.

For convenience Para 15 of the said judgment is reproduced as under:

"Section 116A provides for an appeal. The said provision must be given a liberal

and purposive construction. The scope of an appeal should be held to be wider than an application for judicial review or a petition under Article 136 of the Constitution of India."

20. In view of above, on account of availability of alternative statutory appellate remedy the present writ petition is not maintainable. It shall be open to the petitioner to prefer an appeal u/s 20 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. On account of pendency of controversy in this Court since more than a year has been passed and also on account of fact that an interim order was passed in petitioner's favour, the appellate authority is directed to entertain the appeal on merit without being influenced by delay and laches. In case, the appeal is preferred within a period of one month from today, the appellate authority shall decide the same simultaneously along with the pending Misc Appeal No. 154 of 2003 filed against the order dated 19.8.2003 in accordance to law. While deciding the appeal the appellate authority shall consider the ground raised by petitioner's Counsel referred hereinabove apart from other grounds, which may be raised in the memo of appeal. The appellate authority shall decide both the appeals in accordance to law expeditiously and preferably within a period of four months from the date of receipt of certified copy of this Court. Parties shall maintain status quo for the period of four months or till disposal of appeal whichever is earlier.

Subject to aforesaid observation, the writ petition is dismissed on account of availability of alternative remedy.

No order as to cost.