

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 6845 of 2015 (O&M)

106

Date of decision : 10.04.2015

M/s Public Service Station and othersPetitioners

Versus

UCO Bank and othersRespondents

**CORAM:- HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Harkesh Manuja, Advocate
for the petitioners.

HEMANT GUPTA, J.

Challenge in the present writ petition is to an order dated 16.01.2015 (Annexure P-7) passed by the Debts Recovery Tribunal on an application for setting aside the ex-parte order dated 27.02.2013 and order dated 17.03.2015 (Annexure P-9) passed by the Debt Recovery Appellate Tribunal.

Grievance of the petitioners is that the petitioners were under bona fide mistake that it need not appear before the Debts Recovery Tribunal in proceedings under Section 19 of Recovery of Debts due to Banks and Financial Institutions Act, 1993 since it had settled the amount with the Bank. By virtue of settlement, the petitioners were required to pay a sum of ₹1,85,00,000/- on or before 31.03.2013.

The petitioners filed an application for setting aside the said ex-parte recovery certificate on 10.04.2014 after coming to know that an ex-parte order has been passed on 27.02.2013. The application was dismissed by the Debts Recovery Tribunal by passing a non-speaking order but such order has been upheld by Debts Recovery Appellate Tribunal on various grounds as mentioned therein.

Admittedly, the petitioner has deposited only a sum of ₹75 lakhs out of settled amount of ₹1,85,00,000/- till now. The settled amount was to be paid on or before 31.03.2013. Thus, we find that the

action of the petitioners cannot be said to be bona fide. Had the petitioners deposited the amount, one can possibly say that the petitioners were performing their part of settlement and, thus, did not appear before the Debts Recovery Tribunal on account of mistaken belief. Once the petitioners are defaulters of one time settlement, they cannot rely upon the one time settlement to seek setting aside of ex-parte recovery certificate.

We do not find any illegality in the order passed by the Debts Recovery Appellate Tribunal finding that there is no sufficient cause to setting aside the ex-parte order. We find that the sole attempt of the petitioners is to delay recovery proceedings on one or the other ground. Even having settled the account, the petitioners are in default for a period of more than two years.

In view thereof, we do not find any reason to interfere in the order passed by the Debts Recovery Appellate Tribunal.

Thus, the present writ petition is dismissed.

(Hemant Gupta)

Judge

(Lisa Gill)

Judge

April 10, 2015

rts