

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

**CR No.7044 of 2017
Date of decision:11.12.2017**

M/s White Water Foods Limited & Others **..... Petitioners**

Versus

Bank of Maharashtra **..... Respondent**

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Aditya Grover, Advocate for the petitioners.
Mr. J.S. Bagga, Advocate for the respondent.

B.S. Walia, J. (Oral)

1. Mr. Jaswinder Singh, Advocate has put in appearance on behalf of the respondents and has filed power of Attorney. The same is taken on record.
2. Prayer in the revision petition is for setting aside of order dated 28.08.2017 (Annexure P1) passed by the learned Debt Recovery Tribunal-II, Chandigarh (hereinafter referred to as the "Tribunal") in OA No.4237 of 2017 in case titled as Bank of Maharashtra v. M/s White Water Foods Pvt. Ltd. and others closing the right of the defendants-petitioners to file written statement.
3. Learned counsel for the petitioners states that the defendants-petitioners put in appearance before the learned Tribunal on 25.07.2017 whereupon the case was adjourned to 28.08.2017 for filing of written statement. However, the written statement could not be finalized and signed for submission on 28.08.2017 due to disturbances in Panchkula during the period 24.08.2017 to 27.08.2017 on account of widespread agitation due to the Gurmit Ram Rahim case.

4. Learned counsel contends that in the circumstances, the impugned order dated 28.08.2017, closing the right of the defendants-petitioners to file written statement was unduly harsh and some more time ought to have been granted.

5. Learned counsel relies upon the decision dated 25.04.2017 in CR No.2896 of 2017 wherein this Court while taking note of the decision of the Hon'ble Supreme Court in **Shaikh Salim Haji Abdul Khaymsab v. Kumar, 2005 (4) RCR (Civil) 823 & Mahila Ramkali Devi and others v. Nandram (D) Thr. LR's and others, 2015 (5) RCR (Civil) 562** wherein the Hon'ble Supreme Court held that the rules of procedure were a handmaid of justice and procedural law was subservient to and was in aid of justice, granted one opportunity to the petitioner therein to file written statement subject to payment of costs of Rs. 5,000/- by observing that it was settled law that no person should be condemned unheard, besides the OA was at the initial stage and in case the defendants-petitioners were not allowed to file written statement, their right to defence would be gravely prejudiced and they would not be able to lead evidence to substantiate their defence in order to rebut the claim of the respondent-applicant. Learned Counsel contends that the claim of the petitioners herein is also on identical lines and prays for grant of one opportunity to enable filing of written statement on such terms as to costs as deemed just and proper in the facts and circumstances of the case.

6. Learned counsel for the respondent on the other hand contended that the defendants-petitioners had been granted adequate time to file written statement, therefore, no indulgence was warranted. He further contended that in case the Court was inclined to grant opportunity, the same should be subject to payment of costs.

7. I have considered the submissions of learned counsel for the parties.

8. Admittedly the defendants-petitioners had put in appearance before the Debt Recovery Tribunal on 25.07.2017 whereupon the OA was adjourned to 28.08.2017 for filing of written statement. It is also an admitted position that widespread disturbances took place in Panchkula during the period 24.08.2017 to 27.08.2017 and the counsel for the defendants-petitioners resides in Panchkula. In the circumstances, it can be reasonably presumed that due to disturbances, the written statement could not be finalized and filed on 28.08.2017.

9. Be that as it may, 28.08.2017 was the first date for filing of written statement and in the circumstances, I find merit in the submission of learned counsel for the petitioners that the learned Tribunal ought not to have resorted to the harsh and drastic step of closing the right of the petitioners / defendants to file written statement. A short adjournment could have been granted, if need be, subject to payment of costs.

10. In the circumstances, I feel that it would be in the interest of justice that one opportunity is granted to the defendants-petitioners to file their written statement within one week from today subject to payment of Rs.5000/- as costs to be deposited with the High Court Legal Services Committee Fund.

11. Revision petition allowed as above.

(B.S. WALIA)
JUDGE

11.12.2017

amit

Note:

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| 1. Whether the order is speaking/reasoned | : | Yes/No. |
| 2. Whether the order is reportable | : | Yes/No. |