

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.10766 of 2018.

Date of Decision: May 02, 2018

Smt.Sushma Garg and another

.....Petitioners

versus

Corporation Bank and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Mr.S.D.Bansal, Advocate, for the petitioners.

Mr.Anandeshwar Gautam, Advocate, for

Mr.Gaurav Goel, Advocate, for respondent No.1.

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Surya Kant, J. (Oral)

Notice of motion to respondent No.1 only at this stage.

On our asking, Mr.Anandeshwar Gautam, Advocate for Mr.Gaurav Goel, Advocate, accepts notice.

Let a copy of the writ petition be handed-over to him during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from respondent No.1 or to serve respondent No.2 at this stage as no order prejudicial to their interest is being passed on merits.

The Corporation Bank has filed OA No.1396 of 2015 against the petitioners before the Debts Recovery Tribunal-I, Chandigarh. The amount claimed was over Rs.21.00 lacs. On the other hand, case of the petitioners-borrowers is that the outstanding dues were to the tune of Rs.07,08,037/- which were duly paid, hence nothing was recoverable from

them. However, no such effective plea could be taken by the petitioners as unfortunately their right to file written statement was closed by the Tribunal vide order dated 10.01.2017. They have filed an application for the recall of that order which is stated to be still pending.

We have gone through various orders with the assistance of learned counsel for the parties. It appears *prima-facie* that the Tribunal ought not to have closed the defence of the petitioners as one more but last opportunity could be granted to them to file written statement. We, however, do not express any final view as the application moved by the petitioners to recall the order dated 10.01.2017 is stated to be still pending before the Debts Recovery Tribunal-I, Chandigarh. In this view of the matter, we dispose of this writ petition with a direction to the Presiding Officer of DRT-I, Chandigarh to consider the application filed by the petitioners sympathetically and do not proceed further with the OA without first deciding that application. We have no reason to doubt that DRT-I shall make an endeavour to grant one opportunity to the petitioners to file their written statement and shall specifically deal with their plea that the due amount of loan already stands paid by them and that nothing is recoverable from them. A specific issue to this effect shall be formulated and adjudicated while deciding the OA on merits.

Dasti.

[SURYA KANT]
JUDGE

May 02, 2018
mohinder

[SHEKHER DHAWAN]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No