

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.13436 of 2018.

Date of Decision: May 25, 2018

Sh.Raj Kumar and another

.....Petitioners

versus

State Bank of India and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Mr.Aalok Jagga, Advocate, for the petitioners.

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.Gaurav Goel, Advocate, accepts notice on its behalf.

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 the respondent at this stage.

The challenge in the instant writ petition is to the order dated 05.04.2018 (P-13) passed by the Presiding Officer, Debts Recovery Tribunal-III, Chandigarh whereby application of the petitioners for restoration of SA, which was dismissed in default on 13.10.2015, has been dismissed.

The record reveals that after the SA was dismissed in default on 13.10.2015, the application for restoration was filed within two days, i.e., on

15.10.2015 (P-5). It was averred in the application that the cause of non-appearance of the learned counsel was that he was held up in a matter listed before the High Court. However, without even noticing that reason, the Presiding Officer has in a totally cryptic manner passed the impugned order whereby the application for restoration has been dismissed.

We do not appreciate the manner in which the impugned order has been passed. However, keeping in view the fair stand taken on behalf of the respondent-bank, we are not inclined to award any cost. The writ petition is accordingly allowed; the impugned order dated 05.04.2018 of DRT-III, Chandigarh is set-aside and the Tribunal is directed to restore and decide the SA on merits in accordance with law.

[SURYA KANT]
JUDGE

May 25, 2018
mohinder

[SHEKHER DHAWAN]
JUDGE

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