IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16757-2018
Date of decision : 12.07.2018

M/s Mangalmani Shuttering and another .... Petitioners

VS

Debt Recovery Tribunal-II, Chandigarh and another
...... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr.Diwan Sharma, Advocate
for the petitioners.

***

AVNEESH JHINGAN, J.

The present writ petition has been filed for quashing the order dated 26.02.2018 (Annexure P-3) passed by Debts Recovery Tribunal-II, Chandigarh (for short, 'DRT'), whereby the right of the petitioners to file written statements stand closed.

Respondent No.1 in the writ petition is Debt Recovery Tribunal-II, Chandigarh and respondent No.2 is Allahabad Bank, Sector 17-B, Chandigarh.

The petitioners were sanctioned a loan of ₹95 lakhs (Rupees Ninety Five Lakhs only) on 11.09.2014. The term loan was against hypothecation of goods/stocks of shuttering materials etc. The petitioners defaulted in repayment of loan.

Respondent No.2 filed an Original Application (for short, 'OA') No.2612 of 2017 before respondent No.1 for recovery of the loan amount along with interest. Notice was issued and the petitioners appeared on 15.12.2017. Learned counsel for respondent No.2 was directed to bring a full set of OA along with Annexures on the next date i.e.10.01.2018. On the adjourned date, a copy of OA along with Annexures was handed over to learned counsel for the petitioners and time was given for filing the written statement. The case was adjourned to 26.02.2018 but none appeared for the parties. The order was passed that written statements should be filed on the same very day otherwise the right to file written statements would automatically stand closed. Later in the day, learned counsel for the applicant i.e. respondent No.2 appeared and was apprised of the order.

The petitioners received a notice under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for appearance before the District Magistrate, SAS Nagar, Mohali, on 25.04.2018. Therefore, the petitioners downloaded the zimni orders of DRT and came to know about the impugned order. The petitioners changed the counsel and filed written statements, the same are stated to be lying on the file of respondent No.1 but have not been taken on record.

For the view, we are taking in the writ petition, we do not deem it appropriate to issue notice to the respondents as the same would unnecessarily delay not only the disposal of the present petition but also the OA as well.

Learned counsel for the petitioners contended that only one opportunity was given for filing the written statements. It was further argued that on the date fixed counsel for the petitioners neither appeared before DRT nor informed the petitioners about the impugned order. On coming to know about the lapse, the counsel has been changed and written statements have already been placed on the file. It was submitted that the delay in filing the written statements was not intentional and the proceedings are yet to start.

From the perusal of the paper-book, it is evident that the petitioners were handed over complete set of OA on 10.01.2018, time was granted to file written statements and the matter was fixed for 26.02.2018. On 26.02.2018, it was ordered that the written statements be filed on that very day, otherwise the right to file written statements was closed.

We find merit in contention raised by learned counsel for the petitioners. The delay in filing the written statements has been duly explained. Accordingly, order dated 26.02.2018 is set aside and the petitioners are granted one opportunity to file written statements with advance copy to the learned counsel for the respondent-bank.

As per pleadings in the petition, the written statements have already been placed on the file. In that case, the same may be taken on record subject to payment of ₹10,000/- as costs to respondent No.2-bank by way of demand draft. Further proceedings will be held thereafter.

The writ petition stands disposed of accordingly. The bank, if aggrieved, will have a right to file application for recalling of the order.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

12.07.2018
anju

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No