

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.30088 of 2018(O&M)
Date of decision :13.12.2018

M/s Sawan Poultry Farm and others

..... Petitioners

Versus

Debts Recovery Tribunal-III, Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr.Nakul Sharma, Advocate for the petitioners.
Mr.A.K.Khuber, Advocate for respondent No.2.

AJAY KUMAR MITTAL,J.

1. By way of writ petition under Articles 226/227 of the Constitution of India, the petitioners have assailed the order dated 7.9.2018, Annexure P.7, passed by respondent No.1, whereby the application filed by the petitioners for recalling the order dated 22.6.2018, Annexure P.5, challenging the striking off their defence has been dismissed.

2. Learned counsel for the petitioners submitted that the counsel who was engaged before the Debt Recovery Tribunal-III, Chandigarh (in short, 'the Tribunal') had not put in appearance which resulted in not filing of the written statement on time. Accordingly, on 22.6.2018, an opportunity to file the written statement had been closed. An application to recall the aforesaid order was dismissed on 7.9.2018 vide Annexure P.7.

3. Learned counsel for the petitioners submitted that in the interest of justice, one opportunity be granted to the

petitioners to file the written statement and the respondents can be compensated by reasonable costs. It was also urged that the draft written statement which is to be filed before the Tribunal has been appended as Annexure P.8 along with the application which has been taken on record.

4. Learned counsel for respondent No.2 has opposed the prayer made by learned counsel for the petitioners.

5. After hearing learned counsel for the parties, in the interest of justice, we allow the writ petition. The orders dated 22.6.2018, Annexure P.5 and 7.9.2018, Annexure P.7, are set aside to the extent of striking off the defence of the petitioners. The draft written statement filed along with the application, Annexure P.8, be filed before the Tribunal on 22.12.2018, the date which is stated to be fixed, subject to payment of ₹5,000/- as costs.

6. It is made clear that in case the written statement is not filed by the petitioners on the said date before the Tribunal or the costs are not paid, the writ petition shall be deemed to have been dismissed.

(AJAY KUMAR MITTAL)
JUDGE

December 13, 2018
KD

(MANJARI NEHRU KAUL)
JUDGE