

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.30697 of 2018
Date of decision :13.12.2018

Hardev Singh

..... Petitioner

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.Amit Rishi, 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 petitioner has assailed the order dated 28.2.2018, Annexure P.10, passed by respondent No.1, whereby the application filed by the petitioner for recalling the order dated 20.7.2017, Annexure P.8, challenging the striking off his defence has been dismissed.

2. Learned counsel for the petitioner submitted that the two Original Applications were filed by the Bank before the Debt Recovery Tribunal-II, Chandigarh (in short, 'the Tribunal') against two different Hardev Singh and the date noted by the petitioner was in respect of the other case. It was in such circumstances, the written statement had not been filed, though the written statement was ready with the petitioner on 25.7.2017 vide Annexure P.6. Accordingly, on 20.7.2017, an opportunity to file the written statement had been closed. An

application to recall the aforesaid order has been dismissed on 28.2.2018 vide Annexure P.10.

3. Learned counsel for the petitioner submitted that in the interest of justice, one opportunity be granted to the petitioner to file the written statement and the respondents can be compensated by reasonable costs. It was also urged that the written statement which is to be filed before the Tribunal has been appended as Annexure P.6.

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

5. After hearing learned counsel for the parties, in the interest of justice, we allow the writ petition. The orders dated 28.2.2018, Annexure P.10 and 20.7.2017, Annexure P.8, are set aside to the extent of striking off the defence of the petitioner. The written statement, Annexure P.6, be filed before the Tribunal on 4.1.2019, 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 petitioner 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

Whether speaking / reasoned:
Whether Reportable:

Yes / No
Yes / No