

23.11.2021
S/L No.1
KS/BM

(Via Video Conference)
C.O. 3398 of 2019
Debotosh Ghosh
-Vs.-
UCO Bank

Mr. Somnath Mukherjee
Ms. Papiya Shaw
.....For the Petitioner
Ms. Anjana Sen Gupta
Md. Babulal Mollah
.....For the O.P.

The petitioner has sought for setting aside the order dated 14.03.2019 passed by the learned Presiding Officer, Debt Recovery Tribunal – III, Kolkata in respect of Original Application No.845/2016 and has also sought for an order directing the appellate authorities to return the vehicle bearing no.WB19G0204 and to give the defendant to settle the dues and desist the respondent from any unlawful act.

The grounds taken in this revisional application is that the learned tribunal failed to consider that the written statement/objection was already on record which was affirmed on 13.06.2018 but the Registrar mistakenly fails to put the same in his order.

It is submitted by the learned counsel for the petitioner that on the date the private respondent has affirmed it was filed in

the record. It is further submitted that the learned tribunal wrongly presumed that the defendant has not filed the same and dismissed the interim application for non-compliance of previous order.

Learned counsel for the opposite party/bank submits that admittedly the petitioner took loan for purchase of a vehicle bearing no. WB19G0204 failed and neglected to repay the banking dues in discharge of his liabilities in terms of the agreement by and between the petitioner and the opposite party and in terms of the agreement the bank took the possession of the vehicle and sold in auction by which Rs.2,60,000/- has been received by the Banker towards consideration of the said vehicle and the Bank is yet to recover the dues from the petitioner to the fullest satisfaction.

Learned advocate for the petitioner submits for revival of the application for interim relief before the Tribunal for hearing on merit after setting aside the order by which exemplary costs of Rs.5,000/- has been imposed. This court is of the view having regard to the averment made by the petitioner himself that the petitioner is not clear in his term because the petitioner has avoided in stating on oath that on which date he filed the written statement before the tribunal. The petitioner simply states that it was affirmed on 13.6.2018. Learned tribunal who came to find on

scrutiny of the record on the basis of report of the learned Registrar that no written statement was filed as on the date of order dated 11.3.2018. The learned tribunal found that inconsistent statement have been made by the present petitioner and for that non-compliance of the order of the tribunal dated 15th March, 2018 in not filing the written statement within 30 days, the interim application was dismissed on the same ground. Therefore, it can be safely said that the application filed before the tribunal by the petitioner was not gone into for return of the vehicle. The said order was sought to be recalled by the petitioner. The learned Presiding Officer of the DRT-III, Kolkata was pleased to dismissed the interim application seeking recall of the order dated 11.3.2019 vide order dated 14.03.2019 passed by the tribunal. As the written statement was not received by the Tribunal on 13.06.2018 in compliance of its order, on the ground of inordinate delay in hearing the matter pending before the tribunal, the application was dismissed for cost of Rs.5,000/- to be deposited by the defendant in Bharat Ke Veer Corpus Fund.

On perusal of the materials on record and upon hearing learned Advocate for the parties, I do not find ground to interfere with the order impugned. However, this Court hope and trust that the learned Presiding Officer DRT-III, Kolkata would now take up the original application pending before it as

expeditiously as possible by giving an opportunity to the petitioner to raise his written objection/written statement.

Accordingly, the revisional application being C.O. 3398 of 2019 is dismissed, however, without any order as to cost.

(Shivakant Prasad, J.)