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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2296/2019
A K BHARDWAJ

..... Petitioner

Through Mr.Mohit Kochhar, Adv.

versus

PUNJAB NATIONAL BANK & ORS

..... Respondent

Through Mr.Sunil Dalal with Mr.Vivek Jain,
Mr.Ashish Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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11.03.2019

C.M. No. 10694/2019

Exemption allowed, subject to all just exceptions.

W.P.(C) 2296/2019 & CM APPL. 10693/2019 & 10695/2019

Issue notice. Counsel for the respondent no.1, who is the only contesting respondent accepts notice. It may be noted that the respondent nos.2 to 7 are proforma respondents.

We have heard the learned counsel for the petitioner as also for the respondent no.1 and proceed to dispose of the present writ petition.

The grievance of the petitioner is that on an earlier occasion the Debt Recovery Tribunal (DRT) had denied the petitioner the right to cross-examine the two witnesses adduced by the respondent no.1/Bank, whose affidavits by way of evidence had been filed.

Against the said denial the petitioner had preferred an appeal before the learned DRAT, which was allowed and the petitioner was permitted to cross examine the two witnesses.

Subsequently, the respondent no.1/Bank had sought to file another affidavit by way of evidence of another witness and has not produced the deponents of the earlier affidavits, who were cited as witnesses. The DRT has disallowed the prayer of the petitioner to cross-examine the deponent of the affidavit/third witness and the matter has now been listed for final hearing.

The submission of the petitioner is that the deponent of the third affidavit is merely supplementing what has been stated in the affidavits of the earlier two witnesses, who have not been produced for cross-examination.

In our view, these aspects would have to be raised before the learned DRT, when the original application is finally heard. As to what is the worth of the affidavits filed by the respondents, whose deponents have not been produced before the Court, would be considered by the Tribunal at an appropriate stage.

The petitioner cannot insist that the two deponents of the filed affidavits earlier should be necessarily produced before the DRT as that is a call which the respondent no.1 has to take. However, since the respondent no.1/Bank has filed an affidavit of another witness namely Mr.Surender Kumar, the petitioner is certainly entitled to cross-examine the said witness.

We accordingly dispose of the petition alongwith the pending applications by directing that the learned DRT shall permit the

petitioner the opportunity to cross-examine the aforesaid witness.

List the original application before the learned DRT concerned on 25.03.2019. On the said date, the date of cross-examination of Mr.Surender Kumar shall be fixed by the Tribunal.

In view of the aforesaid, the appeal preferred by the petitioner before the DRAT also does not survive.

VIPIN SANGHI, J

REKHA PALLI, J

MARCH 11, 2019

sr/gm