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

+ **W.P.(C) 8393/2019**

Y.P PUNJ FAMILY TRUST

..... Petitioner

Through: Mr. Rajeeve Mehra, Senior Advocate
along with Ms. Shreya Singh,
Advocates.

versus

INDIAN BANK

..... Respondent

Through: Mr. Brijesh K. Tamber, Ms. Tanisha
Setia & Ms. Khyati, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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06.08.2019

C.M. No.34705/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 8393/2019 and C.M. No.34704/2019

The petitioner has preferred the present writ petition to assail the order dated 14.06.2019 passed by the Debts Recovery Tribunal-I, Delhi in O.A. No.1491/2018.

By this order the DRT dealt with the grievances raised by the petitioner – who is defendant No.5 in the Original Application that they had not been served with the complete paper book inasmuch as certain pages are

missing from the paper book. The order refers to the correspondence exchanged between the parties. The Tribunal after considering the stands of parties on either side directed the petitioner and other defendants to file their written-statements on or before 25.06.2019 on whatever documents are available on record. It was directed that their opportunity to file written statement would stand closed and no further opportunity would be provided to them to file their written-statement. It also observed that the objection regarding the missing/ non-availability of documents would be considered at the time of final hearing. The matter was directed to be listed for completion of pleadings, filing of evidence and exhibition of documents before the Registrar on 05.07.2019, and thereafter, before the Tribunal on 05.08.2019 for final arguments.

The submission of Mr. Mehra, learned senior counsel for the petitioner is that the respondent bank – which is the applicant before the Tribunal, has referred to and has claimed to have filed certain documents on record along with the Original Application. The index – as filed by the respondent bank, refers to the said documents. However, the documents referred to in the index are incomplete even on the Tribunal's record. Thus, not only the petitioner, but even the Tribunal does not have the complete document, which is sought to be referred and relied upon by the respondent bank. He submits that, in these circumstances, it is not possible for the petitioner to file a written-statement.

Mr. Mehra also places reliance on Rule 9(1)(ii) of the Debts Recovery Tribunal (Procedure) Rules, 1993, to submit that the applicant is obliged to file all documents relied upon by the applicant and those mentioned in the application.

Firstly, we may observe that the impugned order was passed on 14.06.2019, which clearly fixes the schedule for filing of written-statement on or before 25.06.2019; completion of pleadings; filing of evidence; and exhibition of documents on 05.07.2019; and thereafter, before the Tribunal for final arguments on 05.08.2019. If the petitioner was aggrieved by the impugned order dated 14.06.2019, it was for the petitioner to take steps to assail the same, firstly, before the DRAT well within time. The petitioner has come to this Court directly without first approaching the DRAT, and that too, after the last date fixed by the Tribunal for final hearing on 05.08.2019 has passed.

Secondly, we do not find any merit in the grievance of the petitioner. The petitioner has put the respondent applicant to notice that the documents filed by it are allegedly not complete. This position has been brought to the notice of the Tribunal as well. If the respondent applicant has chosen not to file any further documents, or file complete documents which are allegedly incomplete, the same is their own decision. Nothing prevented the petitioner from filing the written-statement on the basis of the Original Application and documents as placed on record of the DRT while reserving its right to file a further or better written-statement if and when the documents, which the petitioner claims to be incomplete, are filed on record. The Tribunal, for this reason, reserved the right of the petitioner to raise its objection with regard to missing/ non-availability of documents at the final hearing of the Original Application.

It, thus, appears to us that after having missed the bus, the petitioner has come to this Court with the aforesaid grievance only with a view to seek extension of time to file the written-statement. We are informed that the

proceedings on 05.08.2019 were adjourned to 26.08.2019 since the Lawyers are abstaining from work.

Mr. Mehra, on instructions, at this stage, states that the petitioner may be granted one week's time to file written-statement subject to such terms as this Court considers appropriate. He submits that the date for final hearing would not be jeopardised even if time is granted to the petitioner at this stage. He states that even the applicant's documents have not been fully exhibited till date.

Learned counsel for the respondent has appeared on receiving advance notice. He submits that the objection articulated by learned senior counsel for the petitioner before this Court has not been taken before the Tribunal. He further points out that the said objection has not been individually raised by all the defendants.

Keeping the aforesaid circumstances in view, we are inclined to grant one last opportunity to the petitioner to file his written-statement within a period of one week along with all the documents that the petitioner wishes to rely upon, subject to deposit of costs of Rs.50,000/- with the Delhi High Court Lawyers Welfare Trust. The costs shall be deposited within one week. In the eventuality of the petitioner availing of the opportunity granted by this Court for filing the written-statement within a period of one week, the respondents/ applicant may file its replication within a week thereafter. In the event of the respondent applicant filing any further documents or complete copies of documents, the right of the petitioner to appropriately deal with the same would be preserved.

The matter shall be listed before the Registrar, DRT, for exhibition of documents and other purposes on 22.08.2019.

We make it clear that the petitioner shall not seek or be granted any adjournment before the Tribunal for final hearing.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

AUGUST 06, 2019

B.S. Rohella