

**141 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-11500-2023
Date of decision: 29.05.2023

Surinder SinghPetitioner

Versus

Presiding Officer, Debts Recovery Tribunal and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Dinesh Sharma, Advocate
for the petitioner.

Mr. Gaurav Goel, Advocate
for respondent No.2.

DEEPAK SIBAL, J. (ORAL)

1. Through the present petition the petitioner seeks setting aside of order dated 19.05.2023 passed by the Presiding Officer, Debts Recovery Tribunal-III, Chandigarh (for short 'the Tribunal') through which, for non-filing of written statement, the petitioner's defence has been ordered to be struck off.

2. Learned counsel for the petitioner contends that the respondent-Bank had initiated proceedings before the Tribunal in respect of the alleged default on the part of the petitioner in repaying the availed loan; in response to the notice issued, the petitioner appeared before the Tribunal through his counsel on 12.09.2022 on which date a copy of the original application filed by the respondent-Bank was supplied; thereafter, the matter was adjourned to 16.11.2022 on which date for want of complete instructions, the petitioner could not file his written statement; on the very next date of hearing i.e. 19.05.2023 the petitioner sought to file his written statement in Court but the Presiding Officer of the Tribunal refused to take the same on the record, and illegally passed the impugned order striking off the petitioner's defense.

3. Learned counsel for the petitioner has been heard and with his able assistance, the record of the case has also been perused.

4. Without commenting on the issue raised by the petitioner with

regard to him having attempted to file his written statement before the Tribunal which was refused to be accepted but not to preclude him from raising his defense at the threshold of the proceedings that he faces as the same would also violate the principles of natural justice, subject to payment of Rs.10,000/- as costs, to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, one more opportunity is granted to the petitioner to file his written statement. Such permission is also being granted because the impugned order is dated 19.05.2023 and the petitioner has immediately approached this Court within three days thereafter as also after noticing that the affidavit attached with the written statement which the petitioner proposed to file the written statement before the Tribunal was attested on 19.05.2023 i.e. the date on which the impugned order was passed.

- 5. The impugned order dated 19.05.2023 of the Tribunal is set aside.
- 6. The present petition is disposed of in the above terms.
- 7. In case the respondents are aggrieved by the passing of this order, they are at liberty to approach this Court through the filing of an appropriate application.

(DEEPAK SIBAL)
JUDGE

(HARPREET SINGH BRAR)
JUDGE

29.05.2023
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No