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

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**Civil Revision No.4090 of 2007 (O&M)**
**Date of Decision:28.09.2007**

**Dharam Dass Khanna** .....**Petitioner**

**Vs.**

**Debts Recovery Tribunal, Chandigarh and others** .....**Respondents**

**CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL**

Present:- Mr. A.K.Jain, Advocate for the petitioner.

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**Rajesh Bindal, J.**

The challenge in the present petition is to the order dated 22.5.2007 passed by the Debts Recovery Tribunal-I, Chandigarh (for short, `the Tribunal') in an application filed under Section 139/141 of the Contract Act for discharge of the guarantee of the petitioner- defendant No.5, which was ordered to be considered while deciding the main application as in view of the Tribunal, the same would require recording of the evidence.

I do not find that any illegality has been committed by the Tribunal in ordering the application to be considered with the main case as without there being sufficient material on record, it cannot be decided as to whether the petitioner is liable to pay the amount or not. The issues in a case cannot be decided piece-meal. At this stage, learned counsel for the petitioner submitted that even though only reply has been filed, no evidence has been led by the parties, the Tribunal on the one hand observing that the prayer made in the application is to be decided on the basis of evidence to be led by the parties, however, at the same time, it ordered that the case be listed for final arguments even in the absence of evidence by the parties.

A perusal of zimni orders produced on record show that the evidence has not been led by the parties. In case that is so, the direction of the Tribunal for fixing the case for final arguments in absence of the evidence, certainly needs correction. Accordingly, the Tribunal is directed to correct the error while recording the order, in case the assertions of the petitioner are correct.

The petition is disposed of in the manner indicated above.

**September 28, 2007** **( RAJESH BINDAL )**
**renu** **JUDGE**