

**HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

WRIT PETITION No.29731 of 2015

ORDER : *(Per Hon'ble Sri Justice R.Subhash Reddy)*

This writ petition, under Article 226 of the Constitution of India, is filed aggrieved by the order dated 09.02.2015 in O.A.No.1930 of 1999 on the file of the Debts Recovery Tribunal at Hyderabad (for short, 'the Tribunal').

By the aforesaid order, the application filed by the 2nd respondent Bank herein for issuance of Recovery Certificate for an amount of Rs.1,96,74,439/- with future interest at 19.75% per annum, is partly allowed.

When we have pointed out that against the orders passed by the Tribunal, the petitioner has an effective alternative remedy of appeal under Section 20 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short, 'the Act'), it is contended by learned counsel for the petitioner that the availability of remedy of appeal is no bar in this case, mainly on two grounds, viz., that the Debts Recovery Appellate Tribunal, Kolkata (for short, 'the Appellate Tribunal') is not functioning and that the Tribunal has wrongly thrown the burden on the petitioner by not appreciating the defence put forth by the petitioner in proper perspective. Learned counsel for the petitioner also contended

that the documents filed by the borrower-3rd respondent herein are fictitious documents, as such, no liability should have been fastened on the petitioner basing on such documents obtained by the 2nd respondent Bank from the 3rd respondent.

We are not convinced to accept the submissions made by learned counsel for the petitioner. Under the Scheme of the Act, against the orders passed by the Tribunal, a remedy of appeal before the Appellate Tribunal constituted under Section 20 of the Act, is provided. Further under Section 21 of the Act, there is a precondition of deposit of 75% of the amount of debt so due as determined by the Tribunal under Section 19 of the Act and the Appellate Tribunal is also empowered to reduce the amount of 75% to be deposited.

Even assuming that there is no Regular Officer for the Appellate Tribunal, in-charge arrangements would be there, as such, it cannot be said that the Appellate Tribunal is not functioning. The second submission that the Tribunal has not appreciated the evidence on record in proper perspective while recording the findings, is no ground to interfere with the order of the Tribunal, as the said contention can always be raised before the Appellate Tribunal. In fact the Appellate Tribunal, after calling for the records, would be in a better position to appreciate the contentions of this nature, if the appeal is filed.

For the aforesaid reasons, we do not find any merit to

entertain this writ petition, in view of the availability of alternative remedy under Section 20 of the Act, and the writ petition is accordingly dismissed. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

15.09.2015

v v