

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**  
**And**  
**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

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**WRIT PETITION No.649 of 2015**

**ORDER:** (per Hon'ble Sri Justice Ramesh Ranganathan)

This Writ Petition is filed against the order passed by the Debt Recovery Appellate Tribunal at Calcutta in Application No.709 of 2013 in Appeal No.418 of 2013 dated 15.12.2014. The respondent bank filed O.A.No.2 of 2010 for recovery of the dues payable by the borrower and the guarantor. The said O.A. was allowed *ex parte*. Subsequently the petitioner herein filed an application and the *ex parte* order was set aside after contest. The respondent bank filed Review Application No.4/13 and, after hearing both sides, the application was allowed and the *ex parte* order passed in O.A.No.2 of 2010, which was earlier set aside, was restored.

The petitioners filed W.P.No.27900 of 2013 before this Court on 23.09.2013 questioning the order passed in Review Application No.4 of 2013. This Court, by order dated 21.10.2013, dismissed the Writ Petition holding that the petitioner had an alternative statutory remedy which he had not availed. Questioning the order passed in Review Application No.4 of 2013 dated 20.06.2013, the petitioner preferred an appeal, with a delay of 161 days, before the Debt Recovery Appellate Tribunal, Calcutta on 23.11.2013. The delay of 161 days, in preferring the appeal, was condoned.

In the application filed under Section 21 of the Recovery of Debts due to Banks and Financial Institutions Act (for brevity, the 'DRT Act'), the Appellate Tribunal held that, as there was an order of the Debt Recovery Tribunal, directing the borrower to repay the loan, the question of total waiver was impermissible; only the quantum could be reduced; the petitioners were not able to show what their defence was in the O.A; they did not even file their objections along with the application for setting aside the *ex parte* order; the O.A. was

filed for recovery of Rs.22,00,000/- with interest; and the petitioners should deposit atleast Rs.8,00,000/- before the Debt Recovery Tribunal, Hyderabad on or before 20.01.2015 to show their *bona fides*. Just a day prior to expiry of the time specified i.e. on 19.01.2015 the petitioners have invoked the jurisdiction of this Court by way of the present Writ Petition.

Sri M.Govind Reddy, learned counsel for the petitioner, would request extension of time for compliance with the order of the Debt Recovery Appellate Tribunal. Section 21 of the Act stipulates that where an appeal is preferred by any person, from whom an amount is due to a bank or a financial institution, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited, with the Appellate Tribunal, 75% of the amount of debt so due from him as determined by the Tribunal under Section 19 of the Act. The proviso thereunder enables the Tribunal, for reasons to be recorded in writing, to waive or reduce the amount to be deposited under the said Section.

As against the requirement of deposit of 75% of the total dues, the Tribunal has directed the petitioner to deposit just around 1/3<sup>rd</sup> of the debt due. We see no reason to interfere with the discretion exercised by the Appellate Tribunal in this regard. The petitioners' request for extension of time to pay the said amount can as well be addressed by way of an application before the Debt Recovery Appellate Tribunal. Leaving it open to the petitioners to do so, the Writ Petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

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**RAMESH RANGANATHAN, J**

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**M.SATYANARAYANA MURTHY, J**

11<sup>th</sup> February, 2015.  
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