

**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

**and**

**The Hon'ble Sri Justice G.Shyam Prasad**

**Writ Petition No.39623 of 2014**

**Date: 08.09.2016**

**Between:**

P.Gangadhar

**... Petitioner**

**and**

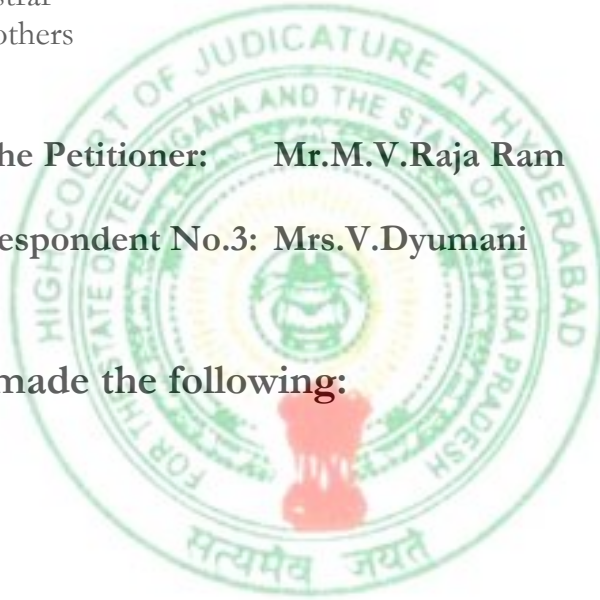
Debt Recovery Appellate Tribunal  
Kolkata  
rep. by its Registrar  
Kolkata and 2 others

**... Respondents**

**Counsel for the Petitioner: Mr.M.V.Raja Ram**

**Counsel for respondent No.3: Mrs.V.Dyumani**

**The Court made the following:**



**Order:** (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for a Certiorari to call for the records pertaining to Common Order, dated 11-07-2014, in Appeal Nos.173, 272, 213 and 214 of 2013 on the file of respondent No.1- Debts Recovery Appellate Tribunal, Kolkata, and set aside the same.

At the hearing, Mr.M.V.Raja Ram, learned Counsel for the petitioner, submitted that though his client has sought for the relief in respect of the Order passed in all the appeals, he was advised to confine the relief only to the order passed in Appeal No.173 of 2013.

The dispute is with respect to recalling of a witness already cross-examined and also to summon a new witness *viz.*, Ayyapusetti Chinna Subrahmanyam.

Pending OA.No.812 of 2002, the petitioner has filed IA.No.895 of 2008 for reopening the evidence in OA.No.812 of 2002, IA.No.896 of 2008 to recall PW.1 for further cross-examination and IA.No.897 of 2008 to summon one Ayyapusetti Chinna Subrahmanyam. All these applications having been dismissed by respondent No.2- Debt Recovery

Tribunal, the petitioner filed Appeal Nos.173, 213 and 214 of 2013 before respondent No.1- Debt Recovery Appellate Tribunal.

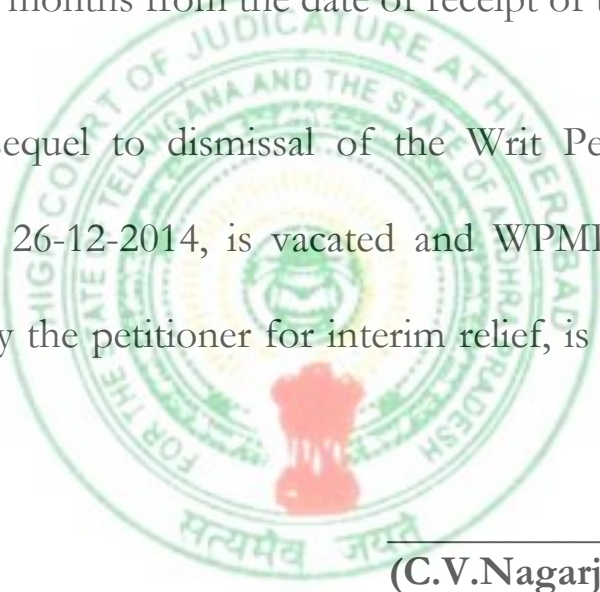
Respondent No.1 disposed of the appeals by holding that under the Recovery of Debts Due to Bank and Financial Institutions Act, 1993 (for short 'the Act'), the Debt Recovery Tribunal is not bound by the strict rules of the Code of Civil Procedure, 1908 (CPC), and that it is entitled to evolve its own procedure. Respondent No.1, however, declared that the petitioner is entitled to place before respondent No.2- Debt Recovery Tribunal, the previous statements of PW.1 and the said Subrahmanyam, whereupon the Presiding Officer of respondent No.2 should analyse the available evidence on the plaintiff's side and rely upon the contradictions, if any, he finds in their statements.

In our opinion, respondent No.1 has lent a practical solution to the grievance of the petitioner by directing respondent No.2 to take into consideration, the alleged contradictions in the statements of both the witnesses and decide the case on merits based on the contradictions, if any found therein. By passing such an order, the grievance with

which the appellant has approached respondent No.1 stood redressed and we do not, therefore, find any reason, whatsoever, to interfere with the impugned order.

For the afore-mentioned reasons, the Writ Petition is dismissed by reiterating the observations of respondent No.1. Since the OA is of the year 2002, we desire that respondent No.2 disposes of the same as expeditiously as possible and not later than six months from the date of receipt of this order.

As a sequel to dismissal of the Writ Petition, interim order, dated 26-12-2014, is vacated and WPMP.No.49692 of 2014, filed by the petitioner for interim relief, is disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 8<sup>th</sup> September, 2016  
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