

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Petition No.29425 of 2017

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The fact that the petitioner herein stood as a guarantor for the loan, sanctioned by the 1st respondent to the 2nd respondent, is not in dispute. The loan advanced by the 1st respondent to the 2nd respondent was on the hypothecation of the stocks. The stocks became worthless and were destroyed. The 2nd respondent is said to have been subsequently dissolved. The Debts Recovery Tribunal has held that no decree could be passed against the 2nd respondent as their plant and machinery was disposed of, the sale proceeds were distributed among the secured creditors, and nothing was left over to meet the claim of the unsecured creditors. On the ground that the petitioner herein, though under liquidation, had not yet been dissolved and continued to exist, and since it stood as the guarantor of the loan, a decree was passed by the Debts Recovery Tribunal against the petitioner herein.

Sri K. Rajanna, learned counsel for the petitioner, would submit that the remedy available to the 1st respondent was to approach the liquidator under Section 12-A of the A.P. Cooperative Societies Act, 1964. The fact, however, remains that the petitioner stood as a guarantor for the loan extended by the 1st respondent-bank to the 2nd respondent. The 1st respondent-bank was, therefore, entitled to proceed against both the petitioner and the 2nd respondent for recovery of the dues payable by the 2nd respondent, by filing an application before the Debts

Recovery Tribunal under the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (hereinafter called “the RDDB Act”).

We find no jurisdictional error in the order of the Debts Recovery Tribunal. In any event, the petitioner has an effective, alternative remedy of approaching the DRAT against the order passed by the Debts Recovery Tribunal-I, Hyderabad. Leaving it open to the petitioner to avail their remedy of an appeal, 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.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

1st September, 2017

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