

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.22640 of 2018

ORDER: (per SK,J)

The grievance of the petitioner in this case is as to the order dated 04.05.2018 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.No.254 of 2018 in O.A.No.316 of 2011. By the said order, the Tribunal refused the request of the petitioner, the first defendant in the O.A., to permit him to cross-examine the bank's witness (A.W.1). It appears that the State Bank of India extended certain loan facilities to M/s. Maytas Hill County Private Limited and purchasers of flats in the venture floated by the said company. In that context, a tripartite agreement seems to have been executed. As there was default in repayment of these loan facilities, a batch of O.As. were filed.

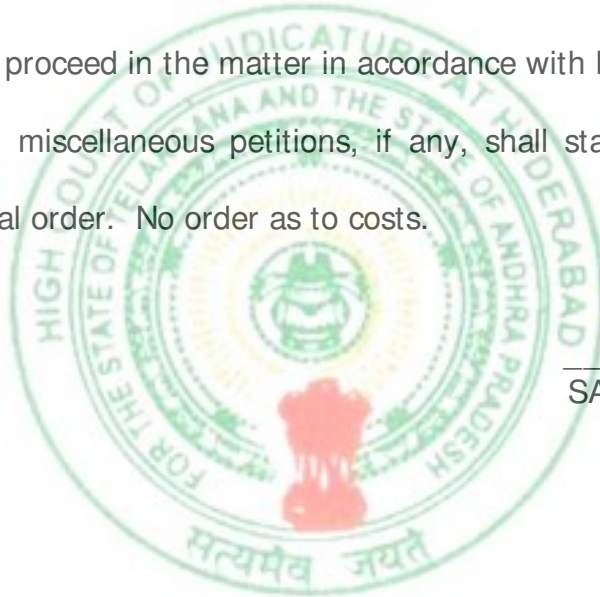
One such O.A. filed by the bank was against the daughter-in-law of the petitioner herein, viz., O.A.No.950 of 2014. It is an admitted fact that in the said O.A., the very same witness of the bank (A.W.1), being one Y.Raju, was permitted to be cross-examined. However, when it came to the petitioner's O.A., the Tribunal opined that no reason was made out necessitating or requiring cross-examination of the said witness (A.W.1). This reasoning of the Tribunal defines comprehension. When identically placed defendants put forth the same stand in both the O.As. and cross-examination was permitted in one such O.A., there is no reason why the Tribunal should discriminate against the first defendant in the other O.A., the petitioner herein. It may be noted that the proviso to Rule 12(9) of the Debts Recovery Tribunal (Procedure) Rules, 1993, specifically empowers the Tribunal to permit the cross-examination of a witness. It

may also be noted that certain admissions were elicited from the bank's witness during his cross-examination in O.A.No.950 of 2014. As each O.A. would be a separate proceeding, the petitioner perhaps seeks to elicit the very same admissions in O.A.No.316 of 2011 filed against him.

The inconsistent stands of the Tribunal therefore cannot be countenanced.

The writ petition is accordingly allowed setting aside the docket order dated 04.05.2018. Sufficient cause has been made out by the petitioner to permit the cross-examination of the witness (A.W.1). The Tribunal shall therefore fix a convenient date for such cross-examination and thereafter proceed in the matter in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:05.07.2018

GJ