

HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

Writ Petition No.27723 of 2018

ORDER: {Per Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri K.V.Bhanu Prasad, learned counsel for the petitioner, and Sri Chitturu Srinivas, learned Standing Counsel appearing on behalf of respondents 2 and 3 and, with their consent, the writ petition is disposed of at the stage of admission.

The proceedings under challenge in this writ petition is the docket order dated 18.07.2018 whereby the petitioner's application in I.A.No.2006 of 2018, to set aside the order dated 02.07.2018, was dismissed. In its order dated 02.07.2018, the Debts Recovery Tribunal noted that the conditional order dated 22.06.2018 was partly complied with, on a written statement being filed by the petitioner. However, the defence evidence affidavit was not filed by the petitioner and, hence, the relief, to the extent permission was granted to file a defence evidence affidavit, was dismissed. The petitioner, thereafter, filed I.A.No.2006 of 2018 to set aside the order dated 02.07.2018 and, on the ground that the order dated 22.06.2018 was not complied with, the said I.A was dismissed by the order dated 18.07.2018.

In terms of the order dated 22.06.2018, the petitioner was required to file their defence evidence affidavit; and, as they failed to do so, their right to file the defence evidence affidavit was forfeited by order dated 02.07.2018. The application, in I.A.No.2006 of 2018, was filed to set aside this order dated 02.07.2018. The Debts Recovery Tribunal has erred in dismissing I.A.No.2006 of 2018, by its order dated 18.07.2018, on the ground of non-compliance of its order dated 22.06.2018, since it is only because the order dated 22.06.2018 had not been complied with, that the order dated 02.07.2018 was passed forfeiting the petitioner's right to file

their defence evidence affidavit; and I.A.No.2006 of 2018 was filed to set aside the said order dated 02.07.2018.

Sri K.V.Bhanu Prasad, learned counsel for the petitioner, would submit that the defence evidence affidavit is ready; and the petitioner would file it, if an opportunity is given to them to do so, on the next date of hearing. Sri Chitturu Srinivas, learned Standing Counsel for respondents 2 and 3, would submit that the O.A is coming up for arguments tomorrow i.e 24.10.2018; and the respondent-bank has no objection if the petitioner were to file their defence evidence affidavit tomorrow and proceed with arguments on the same day.

As Sri K.V.Bhanu Prasad, learned counsel for the petitioner, agrees for such an order to be passed, the impugned order dated 18.07.2018 is set aside. The petitioner shall file their defence evidence affidavit tomorrow i.e 24.10.2018, and proceed with arguments on the very same day. Needless to state that failure on the part of the petitioner, be it in filing their defence evidence affidavit or to proceed with arguments when the matter is taken up for hearing tomorrow i.e 24.10.2018, would enable the Debts Recovery Tribunal to proceed and pass orders, thereafter, in accordance with law.

The Writ Petition stands disposed of accordingly. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, J)

(D.V.S.S.SOMAYAJULU, J)

23rd October, 2018

Note: Issue C.C today.

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HON'BLE SRI JUSTICE RAMESH RANGANATHAN
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Date: 23.10.2018

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