THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.34041 of 2018

Order: (Per the Hon'ble Sri Justice Ramesh Ranganathan)

This Writ Petition is filed questioning the order passed by the Debts Recovery Tribunal-I, at Hyderabad, in O.A.No.566 of 2013 dated 09.08.2018.

The petitioner herein is the fifth defendant in O.A.No.566 of 2013 filed by the second respondent – Bank before the Debts Recovery Tribunal-I, Hyderabad. The Debts Recovery Tribunal, by its order in O.A.No.566 of 2013 dated 09.08.2018, directed defendants 1 to 5, jointly and severally, to pay the applicant-bank a sum of Rs.17.13 Crores with future interest at 14.75% per annum.

Smt. Ch. Vedavani, learned counsel for the petitioner, would place reliance on Section 51 of the Indian Trusts Act, 1882 to submit that no property of the Trust can be furnished as security for the loans extended to the Trustee; and even if the finding recorded by the Debts Recovery Tribunal, that the original mortgage of Trust property for the loan extended to it was later extended by the petitioner Trust as security for the loan granted to the fourth respondent, is held to be true, even then Trust property cannot be furnished as security in view of Section 51 of the Act.

The fact, however, remains that, based on the security furnished by the petitioner Trust in favour of the fourth respondent, a loan was advanced to the fourth respondent which is now said to be for a sum in excess of Rs.45.00 Crores. While the scope and ambit of Section 51 of the Indian Trusts Act may necessitate examination, it is not as if this question of law cannot be examined by the Debts

Recovery Appellate Tribunal in proceedings under Section 20 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (RDDB Act).

While a feeble submission is made by the learned counsel to submit that an appeal would require pre-deposit of certain amount for it to be entertained, the remedy provided by the Act, of an appeal to the Debts Recovery Appellate Tribunal, is hedged by the condition of deposit of a percentage of the disputed amount as a pre-condition for the appeal to be entertained. Such a pre-condition would necessitate compliance for an appeal to be entertained by the appellate Tribunal. The mere fact that certain amount is required to be deposited for an appeal to be entertained would not, by itself, justify the extraordinary jurisdiction of this Court, under Article 226 of the Constitution of India, being invoked.

The Writ Petition fails and is, accordingly, dismissed leaving it open to the petitioner to avail the remedy of appeal. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

KONGARA VIJAYA LAKSHMI, J

Date: 26.09.2018
Nsr

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AND
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Writ Petition No.34041 of 2018

(Per the Hon'ble Sri Justice Ramesh Ranganathan)

Date: 26.09.2018

Nsr