

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

Writ Petition No.34702 of 2018

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

The Debt Recovery Tribunal, by its docket order dated 09.08.2018, imposed costs of Rs.2,000/- and directed the petitioners to deposit Rs.20,000/- to the Prime Minister's National Relief Fund besides directing them to deposit Rs.1.00 crore to the credit of the OA with the Debt Recovery Tribunal within three weeks.

On the said order of the Debt Recovery Tribunal dated 09.08.2018 being subjected to challenge before us, we had, in our order in W.P.No.31800 of 2018 dated 10.09.2018, observed that, since the very claim of the bank for recovery of the amount due of Rs.10.00 crores necessitated adjudication, it is only after a decree is passed that the petitioners could be held liable to make payment of the said amount; and, even without adjudicating the bank's claim, the Debt Recovery Tribunal was not justified in directing the petitioners to deposit 1/10th of the claim amount to the credit of the O.A, as a pre-condition to set aside the order forfeiting the petitioners right to file an evidence affidavit.

The Debt Recovery Tribunal has committed the very same error, as it had in its earlier order dated 09.08.2018, in directed the petitioners, by its order dated 12.09.2018, to pay costs of Rs.1,000/- to the other side, Rs.10,000/- to the Prime Minister Relief Fund, and deposit Rs.20.00 lakhs directly with the bank within one week.

On the petitioner's seeking permission to file an evidence affidavit, along with its application to set aside the earlier order forfeiting their right to file the said affidavit, the Debt Recovery Tribunal could have imposed a reasonable amount as costs to set aside the earlier order forfeiting the petitioners right to file the evidence affidavit within time. It could not, in

law, have directed deposit of a part of the claim amount, which is yet to be adjudicated by it, in proceedings under the Recovery of Debts due to Banks and Financial Institutions Act.

While, on the impugned order of the DRT being set aside, we would, ordinarily, have remanded the matter to the Debt Recovery Tribunal directing it to confine its examination only to the question of costs required to be paid by the petitioner to have the earlier order, forfeiting their right to file the evidence affidavit, set aside, without requiring the borrower to deposit a part of the claim amount, both Sri C.Sreenivas, learned counsel for the petitioners, and Sri A.Satyanarayana, learned Standing Counsel for the respondent-bank, would agree that, instead of directing the Debt Recovery Tribunal to examine the matter afresh, it would suffice if the Debt Recovery Tribunal is directed to permit the petitioners to file an evidence affidavit on their paying costs of Rs.2.00 lakhs to the respondent-bank within two weeks from today.

The order, impugned in this writ petition, is set aside. The petitioners shall, within two weeks from today, pay costs of Rs.2.00 lakhs to the respondent-bank. On payment of costs of Rs.2.00 lakhs, as directed herein above, the earlier order, forfeiting the petitioner's right to file an evidence affidavit, shall stand set aside. On their filing their evidence affidavit, along with a memo evidencing payment of costs, within two weeks from today, the Debt Recovery Tribunal shall receive the evidence affidavit, and conduct proceedings thereafter in accordance with law. In case the petitioners fail to pay costs of Rs.2.00 lakhs to the respondent-bank within the aforesaid period of two weeks, or to file a memo enclosing proof of payment of costs, along with the evidence affidavit, within the said period of two weeks from today, the earlier order of the Debt Recovery Tribunal, forfeiting the petitioners' right to file an evidence affidavit, shall revive and it is open to the Debt Recovery Tribunal to proceed, and pass an order thereafter in accordance with law.

Sri A.Satyanarayana, learned Standing Counsel for the respondent-bank, would submit that the matter is posted to 27.09.2018 for arguments of the defendant and both parties would convey the contents of the order, passed by this Court, to the Debt Recovery Tribunal during the course of hearing on 27.09.2018.

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

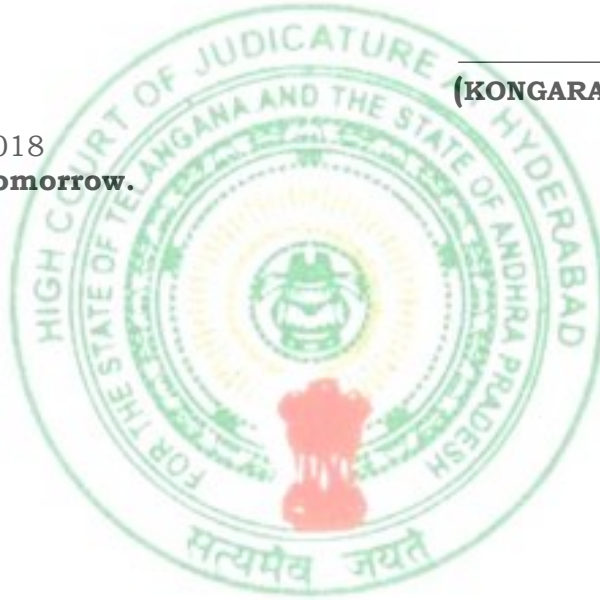
(RAMESH RANGANATHAN, J)

26th September, 2018

Note: Issue C.C tomorrow.

JSU

(KONGARA VIJAYA LAKSHMI, J)



HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
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Writ Petition No.34702 of 2018

Date: 26.09.2018

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