

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS.JUSTICE J. UMA DEVI**

+ WRIT PETITION No.40456 OF 2018

% Date:04.12.2018

Between:

Mrs. Bhagyamma W/o.Late Shankaraiah,
R/o.Kondakal Village, Shankarpally Mandal,
Ranga Reddy District and others.

... Petitioners

v.

\$ Union of India, Rep. by the Secretary,
Ministry of Finance (Banking),
New Delhi and others.

.. Respondents

! For Petitioners : Ms. Nausheen Najm Us Sahar

^ For Respondents : Mr. B.S. Prasad
Mr. K. Lakshman

< Gist :

> Head Note :

? Cases Referred : Nil

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HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

WRIT PETITION No.40456 OF 2018

ORDER: *(Per V. Ramasubramanian, J)*

Aggrieved by two orders passed by the Debts Recovery Tribunal, one dated 09.02.2018 and another dated 06.11.2018, the petitioners, who are third party claimants, have come up with the above writ petition.

2. Heard Ms. Nausheen Najm Us Sahar, learned counsel for the petitioners and Mr. B.S. Pradad, learned counsel for the Bank.

3. The 3rd respondent Bank filed O.A No.494 of 2011 under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short 'RDDB Act'), and obtained a certificate of recovery in RP No.288 of 2014. The petitioners, who are third parties and who claim independent title to the property, filed a claim petition in CP No.2 of 2018. First they made a prayer for setting aside the order dated 09.02.2018 and then they made a prayer for leading evidence. On 06.11.2018, the Tribunal passed two orders, one before lunch and another post lunch. Both these orders read as follows:

"06.11.2018:

The counsel for CP. Mr. V. Rao is present and filed a memo dated 06.11.2018 therein enclosing the precedent orders of Hon'ble H.C and mentioning of the provisions of Sec.28 & 29 of RDB Act, 1993. The counsel for CH Bank Mr. Ramana Kumar is present and objected the marking of evidence. The objection raised by the CH Bank counsel is sustained. However the affidavit along with the documents submitted by the counsel for CP will be considered while adjudicating the matter. For arguments after lunch.

06.11.2018:

Both the counsels for CH Bank and CP Mr. Raman Kumar and Mr V. Rao have been respectively present. The matter is posted for 09.11.2018 for hearing/orders.”

4. Aggrieved by the said orders, the petitioners have come up with the above writ petition.

5. The main objection of the petitioners is that in a claim petition filed by third parties, the Tribunal cannot shut out their rights to lead evidence. This objection is to be sustained in view of the fact that persons who set up independent title, are entitled to prove the same. Otherwise the opportunity granted to third parties will become meaningless. But, insofar as the objection of the petitioners to the order dated 09.02.2018 is concerned, the same cannot be sustained, in view of the fact that the same was a matter between the borrower and the creditor.

6. In view of the same, the writ petition is disposed of rejecting the challenge to the docket order dated 09.02.2018, but setting aside the orders dated 06.11.2018. The Tribunal shall give an opportunity to the petitioners to lead evidence and then dispose of the claim petition in CP No.2 of 2018 within a period of two (2) months from the date of receipt of a copy of this order.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

December 04, 2018
KTL