

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

**HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHA RAO**

Writ Petition No.42711 of 2018

Between:

M/s. Sarvaraya Textiles Employees Group Gratuity
Trust, represented by its Trustee, C/o Sarvaraya
Textiles Limited, represented by its Managing
Director, S.B.P.S. Krishna Mohan, S/o late S.B.P.V.
Chalapathi Rao and another

... Petitioner

And

The Debts Recovery Tribunal-II, represented by
its Registrar at Hyderabad and another

... Respondents

Counsel for the Petitioner : M/s. Bharadwaj Associates

Counsel for Respondents : Chitturu Srinivas

HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

Writ Petition No.42711 of 2018

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

Aggrieved by an ex parte order passed by the Debts Recovery Tribunal in an application filed by the 2nd respondent Corporation under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDB Act), the petitioners have come up with the above writ petition.

2. Heard Mr. Vedula Venkata Ramana, learned senior counsel appearing for the petitioners and Mr. Chitturu Srinivas, learned standing counsel for the 2nd respondent-Corporation.

3. The 2nd respondent-Corporation herein filed an application in O.A.No.139 of 1998 on the file of the Debts Recovery Tribunal, Bangalore. At that time, the Debts Recovery Tribunal, Bangalore was a common Tribunal for the States of Andhra Pradesh and the Karnataka.

4. There is no dispute about the fact that the petitioners appeared before the Debts Recovery Tribunal, Bangalore and also moved applications under Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1984. The proceedings were under stay for some time.

5. After the constitution of the Debts Recovery Tribunal at Hyderabad, the application got transferred to the file of the Tribunal

at Hyderabad and renumbered as O.A.No.1381 of 1999. In the year 2017, it was again renumbered as O.A.No.2832 of 2017 after an Additional Tribunal was created at Hyderabad.

6. But, it appears that after transfer, no notice was issued to the petitioners. Consequently, the petitioners did not appear and they were set ex parte. Now a certificate of recovery has been issued by the Recovery Officer pursuant to the judgment rendered ex parte by the Tribunal. Therefore, the petitioners have come up with the above writ petition.

7. We directed Mr. Chitturu Srinivas, learned counsel for the 2nd respondent-Corporation to find out as to whether the petitioners were ever served with any notice after the transfer of the application from Bangalore to Hyderabad and as to whether the petitioners appeared at any time before the Debts Recovery Tribunal, Hyderabad. After verifying the records, the learned standing counsel for the 2nd respondent-Corporation pointed out that there is nothing on record to show that a notice was served or the petitioners participated.

8. Therefore, the benefit of the assertion that they were not aware of the proceedings should be given to the petitioners and they should be given one more opportunity to defend themselves.

9. In view of the above, the writ petition is allowed and the impugned order of the Tribunal is set aside. The petitioners shall file a reply to the main Original Application, on or before 21-01-2019. Thereafter, both sides may file documents and on the basis of the

documents, and in view of the limited nature of the evidence under Rule 12 (9), the Tribunal shall pass final orders, within a period of two (2) months thereafter, considering the fact that the application was filed about 20 years ago.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 20-12-2018

Ksn

P. KESHA RAO, J

