

**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.46376 of 2018

Between:

Mohammadia Educational Society, Warangal Highway,
Barugudem Revenue village, Arempula Gram Panchayat
Limits, represented by its Secretary & Correspondent
and another

... Petitioners

And

Indian Overseas Bank, Khammam Branch,
situated at Dr. Gorkey Complex, represented by
its Chief Manager and GPA Holder and others

... Respondents

! Counsel for the Petitioner : Mr. Amancharla V. Gopala Rao

^ Counsel for Respondents : None appeared

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

Writ Petition No.46376 of 2018

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

Aggrieved by a final order passed by the Debts Recovery Tribunal in an application filed by the Bank under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDB Act), the borrowers have come up with the above writ petition.

2. Heard Mr. Amancharla V. Gopala Rao, learned counsel for the petitioners.

3. The order impugned in the writ petition, is one passed on an application filed by the bank under Section 19 of the RDDB Act. It is seen from the impugned order that the petitioners filed a written statement and thereafter the petitioners were also given the opportunity to lead evidence. Thereafter, the Tribunal framed four issues for consideration, which are as follows:

- 1) Whether the claim of the applicant bank was within time?
- 2) Whether the defendants had utilized the loan facilities granted by the bank?
- 3) Whether all the defendants are liable to the amount due to the applicant bank or not?
- 4) Whether the defendants are eligible for set off claim?

4. A total of about 62 documents were filed by the Bank. Thereafter, the Tribunal rejected the defence taken by the

petitioners and allowed the claim of the bank for recovery of more than Rs.4,65,00,000/-.

5. The contention of the learned counsel for the petitioners is that this is a very strange case where the bank sanctioned one loan to discharge another loan and that the payments made by the petitioners were not given credit to. In other words, the grievance of the petitioners is that the Tribunal has not appreciated the facts and the evidence properly.

6. If the Tribunal constituted by a statute has not appreciated the facts properly, the best course of action open to the petitioner is to go before the Appellate Tribunal, where even issues on facts can be canvassed afresh. If the petitioners come under Article 226 of the Constitution, our hands will be tied to the extent of examining only the perversity of the findings. Since the petitioners appear to have a good case even beyond the perversity, the petitioners themselves will stand to benefit by going to the Debts Recovery Appellate Tribunal.

7. Therefore, leaving it open to the petitioners to go before the Debts Recovery Appellate Tribunal, the writ petition is dismissed. Since the time for filing an appeal will be expiring today, the Appellate Tribunal may condone the delay, if any, in filing the appeal, if the appeal is filed within two (2) weeks from the date of receipt of a copy of this order. No costs.

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

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

Date: 20-12-2018

Note: Issue C.C. tomorrow

B.O./Ksn

