

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE K.LAKSHMAN

CIVIL REVISION PETITION NO.533 OF 2019

ORDER: (per SK,J)

This civil revision petition under Article 227 of the Constitution arises out of the Docket Order dated 30.01.2019 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.Nos.187 and 188 of 2019 in O.A.No.934 of 2015.

2. The petitioner herein is defendant No.6 in the said O.A. Admittedly, the petitioner failed to lead evidence in the O.A. and in consequence, his evidence was closed on 27.07.2018. The O.A. was posted for final arguments. While so, he filed I.A.No.187 of 2019 in the said O.A. to reopen his evidence by setting aside the order dated 27.07.2018. He also filed I.A.No.188 of 2019 to recall him as D.W.6 for the purpose of adducing evidence. By Docket Order dated 30.01.2019, the Tribunal stated as follows:

'Counter not filed in IA 187, 188/19 hence the right of filing counter shall stand forfeited. Heard. Petitions allowed subject to

1. Payment of cost of Rs.30000/- in favour of PMNRF.
2. Payment of cost of Rs.2000/- to other side.

Filing of DEA on or before 15.2.19 failing of any of the above conditions, IA shall stand dismissed.'

Aggrieved by the condition imposed to the effect that he should pay costs of Rs.30,000/- to the Prime Minister's National Relief Fund, the petitioner approached this Court.

3. By order dated 11.03.2019, this Court granted interim stay of all further proceedings in O.A.No.934 of 2015.

4. Heard Sri K.Sai Rama Murthy, learned counsel for the petitioner, and Sri K.Rama Krishna, learned counsel representing Sri E.Madan Mohan Rao, learned counsel for Edelweiss Asset Reconstruction Company Limited, respondent No.1. Respondent No.2 is the Tribunal and respondent Nos.3 to 7 are shown as not necessary parties to this revision.

5. Perusal of the docket proceedings in O.A.No.934 of 2015 would indicate that after closure of the petitioner's evidence on 27.07.2018, the matter was listed on 05.12.2018, 07.01.2019 and 24.01.2019 before the passing of the docket order on 30.01.2019. On 05.12.2018, the applicant counsel reported ready but the defendant counsel sought an adjournment. It was accordingly directed to be posted on 07.01.2019. On 07.01.2019, the applicant's counsel reported not ready and it was adjourned to 24.01.2019. Again on 24.01.2019, the applicant counsel reported not ready and it was adjourned to 30.01.2019. In the meanwhile, the subject I.As. came to be filed by the petitioner.

6. In the light of the aforesaid facts and circumstances, we are of the opinion that it was wholly unjustified on the part of the Tribunal to impose exorbitant costs upon the petitioner as a condition precedent to allow him an opportunity to adduce evidence. Payment of costs of Rs.2,000/- to the other side was justified given the fact that the petitioner did not make use of the opportunity given to him to adduce evidence before closure of his evidence on 27.07.2018. However, as he had a cogent reason for the delay on his part, which seems to have been accepted by the Tribunal, the Tribunal was justified in imposing costs of Rs.2,000/- while allowing the subject I.As. No reasons whatsoever are recorded by the Tribunal as to why it thought it fit to impose exorbitant

costs of Rs.30,000/- in addition to the costs of Rs.2,000/- payable to the other side.

7. The impugned Docket Order dated 30.01.2019 is accordingly set aside as regards the imposition of costs of Rs.30,000/- payable to the Prime Minister's National Relief Fund. The Tribunal shall proceed with the evidence of the petitioner as D.W.6 upon proof of payment of costs of Rs.2,000/- to the other side being produced.

8. The civil revision petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

K.LAKSHMAN,J

Date:17.09.2019

GJ

