

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.5994 OF 2019

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Challenging an *ex parte* final order passed by the Debts Recovery Tribunal (DRT) in an Original Application filed by the respondent bank under Section 19 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 and the consequential recovery certificate issued by the Recovery Officer, the defendant Nos.3 and 4 in the Original Application before the DRT have come up with the above writ petition.

2. Heard Mr. P.V. Krishnaiah, learned counsel for the petitioners. Mrs. V. Dyumani, learned counsel, takes notice for the respondent No.1 bank.

3. It is seen from the order of the DRT, dated 22.09.2017 that the petitioners herein were arrayed as respondent Nos.3 and 4 and they were set *ex parte* before the order could be passed. Thereafter, a certificate of recovery was also issued.

4. Once a person has suffered an *ex parte* order in an application under Section 19 of the Act, the appropriate course of action open to such a person is only to go before the same DRT and seek to set aside the *ex parte* order. Today, we cannot deal with the contentions of the petitioners on merits, in the absence of the

petitioners raising any plea before the DRT. Facts cannot be raised for the first time in a writ petition without raising them before the DRT.

Therefore, leaving it open to the petitioners to go before the DRT, and leaving it open to the bank to raise all objections, the writ petition is closed. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

March 22, 2019
Mgr

