HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

Writ Petition No.6068 of 2019

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

Aggrieved by the rejection of her application for a direction to the Bank to produce certain documents, the 5th defendant in an application filed by the Bank under Section 19 of the 1993 Act, has come up with the above Writ Petition.

2. Heard Mr.Chalapathi Rao, learned Counsel for the petitioner.

3. The 1st respondent/Bank filed an application in O.A.No.268 of 2009 on the file of the Debts Recovery Tribunal. After the formation of the Debts Recovery Tribunal at Hyderabad, the matter was transferred to Debts Recovery Tribunal-II and re-numbered as O.A.No.924 of 2017. In other words, the Original Application filed by the Bank under the 1993 Act, is pending for the past nearly 10 years.

4. In the Original Application filed by the Bank, the petitioner herein was cited as the 5th defendant, as a person who has guaranteed the due repayment of the loan and as a person who has also deposited the title deeds relating to her property with a view to create a mortgage.

5. When the Original Application was taken up for trial, the petitioner moved an application in I.A.No.5287 of 2018 seeking a direction to the Bank to produce certain documents. The

documents that the petitioner wanted the Bank to produce, are listed in the petition as follows:-

i) Application from the D-1 Company for Credit Facilities.

ii) Income Tax returns of D-1 Company as on the date of sanctioning the credit facilities to D-1 Company.

iii) Income Tax returns of D-5 obtained by the applicant bank at the time of sanctioning the credit facilities to the D-1 Company.

iv) Title deeds deposit document duly signed by the title deed holders.

v) Legal opinion obtained by the applicant bank basing on which the bank sanctioned credit facilities.

vi) Valuation report obtained by the applicant to arrive the net worth of the D-1 Company for sanctioning/enhancing the credit facilities.

vii) Original bills and receipts of the plant and machinery of D-1 Company basing on which the term loan facility is sanctioned/enhanced.

viii) Monthly stock statements and book debts statement filed by the D-1 Company which is mandatory to avail the credit facilities,

ix) Inspection report of the Bank officials who inspected the D-1 Company which is mandatory to maintain.

x) Audited Balance Sheets of the D-1 Company which is mandatory to arrive the net worth of the D-1 Company.

xi) Proof of running business by D-1 Company obtained by the applicant bank.

xii) Sales Bills obtained by the Applicant Bank along the stock statement and book debt statements.

xiii) Confirmation letter of D-5 confirming the creation of equitable mortgage.

xiv) Documentary proof of paid capital of D-1 Company obtained by the Applicant Bank.

xv) Proof of registration of property mortgage.

xvi) Proof of steps taken for taking over the possession of D-1 Company management, Assets, Plant and Machinery, stocks and book debts and appointing a person to manage the secured assets of D-1 Company.

xvii) List of Plant and Machinery basing on which Term Loan was sanctioned.

xviii) Certified copy of FIR lodged against the borrowers.

6. The application was dismissed by the Debts Recovery Tribunal by an Order, dated 11.03.2019, forcing the petitioner/5th defendant to come up with the above Writ Petition.

7. It is seen from the list of documents that the petitioner has annexed to her application in I.A.No.5287 of 2018 that most of them pertain to the capacity of the borrower Company to make repayment. Some of the documents sought are relating to stocks and audited balance sheets.

8. From the list of documents that the petitioner wanted the Bank to produce, it appears that the petitioner wanted to contend that the very sanction of the loan without verifying the credentials of the Company was wrong.

9. But interestingly it is seen from the written statement filed by the petitioner that the petitioner was admittedly inducted as a Director of the borrower Company. Therefore, if the petitioner has committed a fraud, it is a fraud equally upon the bank, with the petitioner being a party to the same. In the written statement filed by the petitioner before the Debts Recovery Tribunal, the petitioner has admitted her signatures in all the documents relied upon by the bank. She is only pleading ignorance of the contents of those documents. Therefore, the summoning of certain documents, especially with reference to the capacity of the borrower Company, is nothing but a dilatory tactic and the Tribunal was right in dismissing the application. We find no reason to interfere with the said Order and hence, the Writ Petition is dismissed. We make it clear that the observations made herein are only *prima facie* observations which shall not influence the written order of the Tribunal.

Consequently, miscellaneous petitions if ay pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

March 27, 2019

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