

THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE P.KESHA RAO

W.P.No.12501 of 2019

ORDER:

(*Per* Sanjay Kumar, J)

1 Challenge in this Writ Petition is to the docket order dated 03.06.2019 passed by the Debts Recovery Tribunal – I, Hyderabad, in I.A.No.711 of 2019 in S.A.No.13 of 2019. I.A.No.711 of 2019 was filed by the petitioner herein, the applicant in the said Securitisation Application, to amend the prayer portion by supplementing an additional prayer and to permit additional grounds to be raised. By the order under challenge, the Tribunal observed as follows:

“Heard Ld counsel for petitioner and perused the material placed on record. Having regard to the facts and circumstances, the relief prayed in Part-1 is not allowed since the advocate commissioner’s warrant became infructuous and relief prayed in part-2 is allowed.

2 Perusal of the amendment petition filed by the petitioner reflects that Part-1 therein pertained to the additional grounds sought to be raised while Part-2 related to the additional prayer that was sought to be introduced.

3 This Court is at a loss to understand as to how the additional prayer in Part-2 was allowed while rejecting the additional grounds in Part-1. The reason offered by the Tribunal was that the Advocate-Commissioner’s warrant became infructuous. If that was so, the additional prayer which related to the Advocate-Commissioner’s warrant could not have been allowed. The additional grounds in Part-1 not only pertained to the Advocate-Commissioner’s warrant, but also to various other issues in relation to the Notice under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, and the e-auction sale notice dated

16.02.2019. These additional grounds had nothing to do with the Advocate-Commissioner's warrant but despite the same, the Tribunal disallowed all the additional grounds in Part-1.

4 On the above analysis, this Court is constrained to hold that the Tribunal did not apply its mind to the subject amendment application at all while passing the impugned docket order dated 03.06.2019.

5 The Writ Petition is accordingly allowed setting aside the docket order dated 03.06.2019 and remitting I.A.No.711 of 2019 in S.A.No.13 of 2019 to the Tribunal for consideration afresh on its own merits and in accordance with law.

6 Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J.

P. KESHAVA RAO, J.

Dt: 25.06.2019

Kvsn