

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

WRIT PETITION NO.13947 OF 2019

ORDER: (per SK,J)

Challenge in this writ petition is to the order dated 10.06.2019 passed by the Debts Recovery Tribunal-II, Hyderabad, in R.A.No.4 of 2018 (old R.A.No.3 of 2017) in M.P.No.62 of 2015 in M.P.I.R.No.67 of 2015 in C.P.No.7 of 2002 in R.P.No.1752 of 2017 (old R.P.No.192 of 2002) in O.A.No.86 of 1996, whereby the Tribunal dismissed the appeal filed against the docket order dated 01.12.2016 passed by the Recovery Officer dismissing the delay condonation petition.

The petitioner herein is the appellant/claim petitioner in the recovery appeal/claim petition and a third party to the recovery proceedings.

Aggrieved by the docket order dated 01.12.2016, the petitioner preferred the appeal before the Debts Recovery Tribunal-II, Hyderabad, but met with failure. The reason cited by the petitioner for condoning the delay of 355 days in seeking restoration of the claim petition, which was dismissed for default on 25.09.2014, was that his father was ill and that he was busy with his business activities. However, the petitioner failed to produce any medical evidence in proof of the ill-health of his father. It is on this ground that the Recovery Officer and thereafter, the Tribunal, held against the petitioner.

While so, I.A.No.2 of 2019 was filed by the petitioner in the present case placing on record the health book of his father, maintained by the Headquarters Hospital of the South Central Railway at Lallaguda. This medical record dates back to July, 2013 and is voluminous. We therefore

find no grounds to suspect the genuineness thereof. As this material was not produced by the petitioner before the Recovery Officer or the Tribunal, be it for whatever reason, we are of the opinion that the matter requires re-consideration.

The writ petition is accordingly allowed setting aside the order dated 10.06.2019 passed by the Debts Recovery Tribunal-II, Hyderabad, in R.A.No.4 of 2018 (old R.A.No.3 of 2017) in M.P.No.62 of 2015 in M.P.I.R.No.67 of 2015 in C.P.No.7 of 2002 in R.P.No.1752 of 2017 (old R.P.No.192 of 2002) in O.A.No.86 of 1996 and also the order dated 01.12.2016 passed by the Recovery Officer dismissing the delay condonation petition. The matter is remitted to the Recovery Officer for consideration afresh. The petitioner shall be permitted to produce the medical record now placed before this Court and any other supporting material that he chooses to rely upon within a reasonable time and thereafter, the Recovery Officer shall adjudicate the matter on its own merits and in accordance with law. This exercise shall be completed expeditiously.

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