HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

<u>Writ Appeal No.688 of 2019</u>

Date: 27.12.2019

Between:

K.Krishna & another

…Appellants

And

The State of Telangana, rep. by its
Principal Secretary, Education Department,
Secretariat, Hyderabad.
and others

…Respondents

Counsel for the appellant : Mr. K.Laxmaiah

Counsel for respondents Nos.1 & 2 : GP for Education

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

Aggrieved by the order, dated 19.02.2019, passed by the learned single Judge in Writ Petition No.46328 of 2018 whereby the learned single Judge dismissed the writ petition, the present Writ Appeal is filed.

2. The brief facts of the case are that the appellants, who are the employees in the office of the Telangana Government Text Books Press, Mint Compound, Hyderabad, stood as guarantors for the personal loan availed by their co-employee Mr.Akbar Baig from the respondent No.4-Andhra Pradesh Grameena Vikas Bank, who retired from service on 30.06.2018. The respondent No.3-The Assistant Accounts Officer, Telangana Government Text Books Press, at the request of the respondent No.4-Bank, started deducting a sum of Rs.7,000/- each per month from the salaries of the appellants herein from the month of November, 2018. Assailing the same, the writ petition was filed in this High Court questioning the action of the official respondents in deducting an amount of Rs.7,000/- each from the monthly salary of the appellants herein, without putting them on notice. The learned Single Judge, after going through the record, found that the appellants themselves issued a letter of authority, and a letter of undertaking to the effect that they have agreed for recovery of the amounts due on the loan amount borrowed by Mr.Akbar Baig, and have authorized the employer as well as the bank to effect the recovery. Thus, the learned Single Judge dismissed the writ petition.

3. The present writ appeal is filed assailing the order of the learned single Judge mainly on the following grounds:

i) The learned Single Judge did not take the letter, dated 10.05.2018, issued by the appellants to the respondent No.4-Bank intimating about the date of retirement of the principal borrower, and that the respondent No.4 ought to have taken immediate steps to get the amount recovered;

ii) that the principal borrower Mr.Akbar Baig himself addressed a letter, dated 02.06.2018, to the respondent No.2 requesting to deduct the entire outstanding loan amount from out of his retirement benefits. For the reasons best known to them, the respondent No.2 failed to withhold the outstanding loan amount from the retirement benefits of the principal borrower. Therefore, no fault can be attributed to the appellants;

iii) that for recovery of the outstanding loan amount, the respondent No.4 has to institute a civil suit and obtain a decree and later they have to initiate execution proceedings;

4. Heard Sri K.Laxmaiah, the learned Counsel for the appellants, and the learned Government Pleader for Education for the respondents. Perused the record.

5. A perusal of the record clearly shows that the appellants themselves have issued an Irrevocable Letter of Authority, dated 30.09.2016, whereby they have authorized the Disbursing Officer to recover the due amounts from their respective salaries. The learned Counsel appearing for the appellants has fairly admitted that these letters were issued by the appellants themselves where the signatures of the appellants were available.

6. It is well settled principle of law that any lender, who advances any loan, can recover the same from the principal borrower, the guarantors,

jointly or individually, and there is no prohibition under law which says that the lender can only proceed against the principal borrower and unless and until he has exhausted his remedy against the principal borrower, then only he can proceed against the guarantors. The Bank can proceed either against the principal borrower individually, or against the guarantors alone. In case they proceed against the guarantor, the guarantor will step into the shoes of the lender/Bank and can recover the amount paid by him to the Bank from the principal borrower. According to the available record, the appellants themselves have issued a letter of authority and undertaking that the instalments due to the Bank by the principal borrower can be deducted from their salary. Hence, the contention of the appellants that they should be put on notice before deducting any amounts, is totally misplaced. For, there is no requirement that any notice should be given to the appellants before deducting the amounts.

7. In view of the above mentioned facts and circumstances, there are no merits in the appeal. The same is dismissed accordingly upholding the order of the learned Single Judge, dated 9.02.2019, passed in W.P.No.46328 of 2018.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

27th December, 2019
smr / sur