

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

and

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

Writ Petition No.20577 of 2019

ORDER : (per Hon'ble M.S. Ramachandra Rao)

Heard the counsel for petitioner, and Sri P.V. Markandeyulu, counsel for respondents.

2. In this Writ Petition, the petitioner assails the order dt.29.07.2019 in Interlocutory Application No.1221 of 2019 in Original Appeal No.1220 of 2016 on the file of the Debts Recovery Tribunal-I, at Hyderabad refusing permission to petitioner to cross-examine A.W.1, the witness examined by the 1st respondent in the said O.A.

3. The counsel for petitioner contended that it is the stand taken in the Written Statement filed by petitioner before the said Tribunal that blank un-signed documents were obtained by the 1st respondent from petitioner which were later filled up, and the evidence is fabricated by the 1st respondent as if there was a conversion of F.C.Ds into N.C.Ds.

4. In the said O.A., the 1st respondent-Bank is claiming almost Rs.200 crores from petitioner.

5. The petitioner therefore filed Interlocutory Application No.1221 of 2019 in Original Appeal No.1220 of 2016 seeking permission to cross-examine A.W.1.

6. The court below simply extracted the proviso to Rule 12(9) of the Debts Recovery Tribunal (Procedure) Rules and rejected it saying that petitioner had only repeated averments made in the Written Statement and there are no justifiable reasons for cross-examination of A.W.1.

7. Assailing the same, the present Writ Petition is filed.

8. Having regard to the defence taken by petitioner in the O.A. and having regard to the huge claim of almost Rs.200 crores made against petitioner by 1st respondent in the said O.A., we are of the opinion that the Tribunal ought to have permitted the petitioner to cross-examine A.W.1.

9. This Court vide Order dt.04.07.2019 passed in Writ Petition No.13002 of 2018, in a similar situation, granted permission to the borrower to cross-examine the secured creditor's witness.

10. Therefore, the Writ Petition is allowed. The order dt.29.07.2019 in Interlocutory Application No.1221 of 2019 in Original Appeal No.1220 of 2016 on the file of the Debts Recovery Tribunal-I, at Hyderabad, is set aside; and the said I.A. is allowed.

11. The petitioner is permitted to cross-examine A.W.1 on any given date fixed by the Tribunal, and the Tribunal shall re-call A.W.1 for submitting himself to cross-examination.

12. The petitioner shall complete the cross-examination in a maximum of two (02) days time to be fixed by the Tribunal.

13. Accordingly, the Writ Petition is allowed as above. No order as to costs.

14. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

JUSTICE K. LAKSHMAN

Date: 11.12.2019

Ndr/*

