

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

WRIT PETITION NO.44276 OF 2018

ORDER: (per SK,J)

This writ petition was filed by the fifth defendant in O.A.No.735 of 2014 on the file of the Debts Recovery Tribunal-I, Hyderabad. The said O.A. was filed by Canara Bank, Hyderabad, the second respondent herein. By judgment dated 08.11.2018, the Tribunal allowed the O.A. and directed issuance of the recovery certificate. Aggrieved thereby, the petitioner is before this Court.

2. By order dated 31.01.2019, this Court directed that no proceedings should be initiated against the property of the petitioner alone pursuant to the impugned judgment. The proceedings in respect of other properties were permitted to go on.

3. The unofficial respondents in this case remain unserved but we are of the opinion that there is no necessity to keep the matter pending in the light of the final order that is proposed to be passed in this case. Further, it may be noted that the petitioner herein, being the fifth defendant in the O.A., was the only contesting party before the Tribunal. None of the other defendants, viz., the unofficial respondents herein, chose to appear before the Tribunal.

4. It was the specific case of the petitioner before the Tribunal that his signature had been forged in the process of creating a mortgage over his property in favour of Canara Bank, Hyderabad. A written statement was filed to this effect and the petitioner also submitted his evidence affidavit. Despite the same, we find that the Tribunal completely ignored the case put forth by the petitioner and allowed the O.A. only on the

strength of the bank's case. There is neither a mention of the contents of the written statement filed by the petitioner nor his evidence affidavit.

5. In that view of the matter, we are of the opinion that the Tribunal failed to apply its mind to the case in its entirety. It is not open to the Tribunal to adjudicate matters of this nature in this selective manner. The impugned judgment dated 08.11.2018 passed in O.A.No.735 of 2014 is accordingly set aside on this short ground. The O.A. is remanded to the file of the Tribunal for consideration afresh on merits, duly taking into account the stand put forth by the fifth defendant therein and in accordance with law.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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K.LAKSHMAN,J

Date:03.09.2019

GJ