HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.46810 OF 2018

ORDER: *(per V. Ramasubramanian, J)*

Aggrieved by the Award of interest to the tune of 18% per annum, the petitioners have come up with the above Writ Petition challenging the orders of the Debt Recovery Tribunal.

2. Heard Sri P.Sridhar Reddy, learned counsel for the petitioners and Mr.Sudarshan Reddy, learned Standing Counsel for the first respondent.

3. The first respondent filed O.A.No.193 of 2005 under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act (for short, 'the Act'), 1993, seeking recovery of a sum of Rs.10,43,316/- with subsequent interest @ 18% per annum. The application was allowed by the Tribunal by an order dated 20.12.2017.

4. The petitioners are not aggrieved by the substantial part of the order of the Tribunal, but the petitioners are aggrieved by the award of interest @ 18% per annum. According to the petitioners, the contractual rate of interest was only 11.5% per annum, as it was a housing loan.

5. Since the grievance of the petitioners was limited, we passed an order dated 26.12.2018 directing the counsel for the first respondent to find out what was the contractual rate of interest.

6. Today, the learned counsel for the first respondent submitted that the contractual rate of interest was only 11.5% per annum.

7. Therefore, it is clear that the Tribunal went beyond the terms of contract.

8. It must be pointed out that the interest chargeable for different types of loans, are different. Housing loan is always pitched at a much lower rate of interest than the one charged on commercial transactions. Therefore, the Bank cannot seek more than the contractual rate.

9. In view of the above, the Writ Petition is allowed, the impugned order of the Debt Recovery Tribunal is modified, to the extent that instead of 18% per annum, the petitioners shall be obliged to pay interest only @11.5%per annum.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

02.01.2019
vhb