

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY ,THE TWELFTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT PETITION NO: 12678 OF 2009

Between:

1. M/S. Srinivasa Talkies , Rep. by its Managing Partner Smt. B. Laxmi Devi W/o. Late Sri B. Prasada Rao R/o. H.No. 9-66, Main Road, Wyra , Khammam District.
2. Smt. B. laxmi Devi, W/o. Late Prasada Rao Managing Partner, M/s. Srinivas Talkies, Wyra R/o. H.No. 9-66, Main Road, Wyra , Khammam District.
3. Smt. B Padma, W/o. Sri Ramesh Employee R/o. H.No. 9-66, Main Road, Wyra , Khammam District.
4. Kum B. Sailaja, D/o. Late B. Prasada Rao Advocate R/o. H.No. 9-66, Main Road, Wyra , Khammam District.
5. Kum B. Radha @ Radha Kumari, D/o. B. Prasad Rao Govt. Service R/o. H.No. 9-66, Main Road, Wyra , Khammam District.

...PETITIONERS

AND

1. The Debt Recovery Appellate Tribunal , Chennai, Rep. by its Registrar.
2. The Debt Recovery Tribunal, Triveni Complex, Abids, Hyderabad, Rep. by its Registrar
3. State Bank of Hyderabad', Wyra Branch, Khammam, Rep. by its Branch Manager
4. Mr. B. Srinivasa Rao, S/o. Late B. Prasada Rao Govt. Service R/o. H.No. 9-66, Main Road, Wyra , Khammam District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of Certiorari and after calling for the records quash the orders passed in OA No. 225 of 2003 dt. 25-5-2005 on the file of the Debt Recovery Tribunal at Hyderabad and orders passed in RA No. 41 of 2006 dt. 31-1-207 on the file of the Debt Recovery Appellate Tribunal, Chennai

**Counsel for the Petitioner: Ms. B. SHAILAJA REP Ms. K. UDAYA SRI
Counsel for the Respondent No.3: SRI A. KRISHNAM RAJU
Counsel for the Respondent Nos. 1,2&4:--**

The Court made the following: ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

WRIT PETITION No.12678 of 2009

ORDER: (per the Hon'ble the Chief Justice Alok Aradhe)

Ms. B. Shailaja, learned counsel appears for
Ms. K. Udaya Sri, learned counsel for the petitioners.

Mr. A. Krishnam Raju, learned Standing Counsel for
State Bank of Hyderabad appears for respondent No.3.

2. In this Writ Petition, the petitioners have assailed the
validity of the order dated 25.05.2005 passed by the Debts
Recovery Tribunal, Hyderabad, in O.A.No.225 of 2003, as
well as the order dated 31.01.2007 passed by the Debts
Recovery Appellate Tribunal, Chennai, dismissing R.A.No.41
of 2006 preferred by the petitioners.

3. Facts giving rise to filing of this Writ Petition briefly
stated are that the petitioners obtained a loan of Rs.3,50,000/-
from respondent No.3 - State Bank of India, Hyderabad
(hereinafter referred to as 'the Bank'), for construction of a
cinema talkies. The petitioners secured the amount of loan by

creating an equitable mortgage in respect of the schedule properties. The petitioners could not repay the amount of loan. Thereupon, the Bank was constrained to file a suit, namely, O.S.No.25 of 1990 before the learned Senior Civil Judge, Sattupalli, for recovery of a sum of Rs.5,93,264/-.

4. In the aforesaid civil suit, a preliminary decree was passed on 31.03.2001. Against the aforesaid preliminary decree, defendant Nos.1, 2, 8 and 9 filed an appeal, namely, A.S.No.2481 of 2001 before the erstwhile High Court of Andhra Pradesh. The aforesaid appeal was allowed *vide* judgment and decree dated 12.12.2001 by which a Bench of this Court modified the decree passed by the trial Court and directed the defendants to pay a sum of Rs.5,93,264/- along with interest @15% per annum with quarterly rests from the date of suit till the date of decree and thereafter, simple interest @ 15% per annum from the date of decree till the date of realization. The Bank filed an Execution Petition, namely, E.P.No.46 of 2002 before the Civil Court. The aforesaid proceeding, on constitution of the Debts Recovery Tribunal, was transferred to the Tribunal and was numbered as

O.A.No.225 of 2003. The Debts Recovery Tribunal by an order dated 24.05.2005 allowed the aforesaid O.A. and issued the recovery certificate.

5. Being aggrieved, the petitioners filed an appeal, namely, R.A.No.41 of 2006, before the Debts Recovery Appellate Tribunal. The Debts Recovery Appellate Tribunal by an order dated 31.01.2007 *inter alia* held that the petitioners are not entitled to claim the benefit of One Time Settlement (hereinafter referred to as 'OTS') Scheme issued by the Reserve Bank of India dated 29.01.2003 as OTS Scheme is applicable only to the cases where the decree has not been passed. The Debts Recovery Appellate Tribunal affirmed the order dated 24.05.2005 passed by the Debts Recovery Tribunal and dismissed the appeal. In the aforesaid factual background, this Writ Petition has been filed.

6. Learned counsel for the petitioners submitted that the Debts Recovery Tribunal grossly erred in issuing a recovery certificate for a sum of Rs.12,20,623/-. It is further submitted that the Debts Recovery Tribunal as well as the Debts

Recovery Appellate Tribunal grossly erred in awarding interest @15% per annum. It is argued that the Debts Recovery Tribunal erred in awarding an amount of Rs.66,507/- on account of Advocate Fee and other charges.

7. On the other hand, learned counsel for the respondent Bank has supported the order passed by the Debts Recovery Tribunal.

8. We have considered the rival submissions made on both sides and have perused the record.

9. Admittedly, the Bank had filed O.S.No.25 of 1990 before the learned Senior Civil Judge, Sattupalli, for recovery of a sum of Rs.5,93,264/-. It is not in dispute that in the aforesaid civil suit, a preliminary decree was passed on 31.03.2001. Against the aforesaid decree, defendant Nos.1, 2, 8 and 9 preferred an appeal, namely, A.S.No.2481 of 2001. The aforesaid appeal was allowed by judgment and decree dated 12.12.2001 and the judgment and decree passed by the trial Court was modified and the defendants were directed to pay a sum of Rs.5,93,264/- together with interest @15% per

annum with quarterly rests from the date of the suit till the date of decree and thereafter, simple interest @15% per annum from the date of decree till realization. The aforesaid judgment and decree has attained finality and therefore, the contention urged on behalf of the petitioners that the interest could not have been awarded @ 15% does not deserve acceptance.

10. So far as the submission that the petitioners are entitled to OTS Scheme issued by the Reserve Bank of India dated 29.01.2003 is concerned, it is noteworthy that the guidelines relating to the aforesaid Scheme was considered by the Supreme Court in **X-Calibre Knives (Petitioner) Ltd. v. State Bank of India**¹ and it was held that the guidelines of the aforesaid Scheme apply only in cases where the decree has not been passed. In the instant case, the decree against the petitioners has already passed on 31.03.2001 and therefore, the aforesaid Scheme floated by the Reserve Bank of India on 29.01.2003 subsequently does not apply to the facts of the case. The Debts Recovery Appellate Tribunal has therefore rightly negated the contention of the learned counsel for the

¹ (2005) 10 SCC 265

petitioners that the petitioners are entitled to benefit of the
OTS Scheme issued by the Reserve Bank of India dated
29.01.2003.

11. For the aforementioned reasons, we do not find any
ground to interfere with the concurrent findings of fact
recorded by the Debts Recovery Tribunal as well as the Debts
Recovery Appellate Tribunal.

12. In the result, the Writ Petition fails and is hereby
dismissed.

Miscellaneous applications, if any pending, shall stand
closed. There shall be no order as to costs.

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SD/-MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. One CC to Ms. K. UDAYA SRI, Advocate [OPUC]
2. One CC to SRI. A. KRISHNAM RAJU, Advocate [OPUC]
3. Two CD Copies

B M
GJP

K.P.

HIGH COURT

DATED:12/09/2024

ORDER

WP.No.12678 of 2009



DISMISSING THE WRIT PETITION WITHOUT COSTS

5 Copies
[Signature]
21/11/24.