

\$~22,

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6862/2015

%

Judgment dated 21st July, 2015

M/S. SHREEJEE ENTERPRISES AND ANR.

..... Petitioners

Through : Divij Kumar, Adv.

versus

PHOENIX ARC PVT. LTD. AND ORD.

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

CM APPL. 12559/2015.

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 6862/2015 & CM APPL. 12558/2015 (STAY).

3. Present writ petition has been filed by the petitioners under Articles 226 and 227 of the Constitution of India, *inter alia*, against the Order dated 25.5.2015 passed by Debts Recovery Appellate Tribunal in Appeal No.344/2015, which was filed by the petitioners for setting aside the Order dated 15.12.2014 passed by Presiding Officer, Debts

Recovery Tribunal-II, Delhi, in O.A.No.221/2011.

4. In this case, the respondent no.1 had filed an application, being I.A.501/2014, under Section 65 of the Evidence Act seeking leave of the Tribunal to lead secondary evidence primarily on the ground that the present debt was assigned by the original lender bank, Royal Bank of Scotland Company, and during assignment and transfer of the original files between two institutions some of the loan documents filed has been misplaced. Before the Tribunal the stand taken by the petitioners herein was that the reasons stated in the application seeking leave to lead secondary evidence were not genuine or *bonafide*.
5. While allowing the application, the DRT took into consideration the fact that the defendants (petitioners herein) had not disputed the transaction with the original lender rather an objection was raised that the amount was less than Rs.10.00 lakhs, keeping the stand of the defendants in mind, the DRT allowed the application for leave to lead secondary evidence and permitted the applicant to lead secondary evidence. The same very stand of the petitioners herein was negated by the Debts Recovery Appellate Tribunal when it was noticed in the impugned order dated 25.5.2015 that no reasons were spelt out by the petitioners to show that the grounds raised in the application were not genuine.
6. We have heard learned counsel for the petitioners and find no grounds to interfere in the Order passed by the DRT and the order passed by the Debts Recovery Appellate Tribunal in the present proceedings under Articles 226 and 227 of the Constitution of India. The

documents shall be proved by the applicant (respondent herein) in accordance with law.

7. With these observations, the writ petition and application stand dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JULY 21, 2015

msr