THE HON'BLE SRI JUSTICE SANJAY KUMAR
and
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.6615 of 2014

ORDER: (per SK, J)

This writ petition was filed assailing the order dated 22.01.2013 passed by the Debts Recovery Appellate Tribunal, Chennai, in M.A.No.8 of 2008 confirming the order dated 05.10.2007 passed by the Debts Recovery Tribunal, Visakhapatnam, in I.A.No.423 of 2007 in O.A.No.209 of 2002.

The said I.A. was filed by the petitioners herein seeking a direction to the State Bank of India to produce the stock statement and list of debtors submitted by them to the bank on 31.07.2000 and 07.08.2000 and the seizure report dated 31.08.2000 relating to the first petitioner company.

By order dated 05.10.2007, the Debts Recovery Tribunal, Visakhapatnam, opined that it is the duty of the petitioners to give notice under the Code of Civil Procedure, 1908, to the bank to produce relevant documents and it is not for the Tribunal to direct so. The I.A. was accordingly dismissed. Aggrieved thereby, the petitioners filed M.A.No.8 of 2008 before the Appellate Tribunal. By order dated 22.01.2013, the Appellate Tribunal opined that if the bank failed to furnish the documents, it would always be open to the petitioners, being the appellants before it, to ask the Tribunal to take notice of the fact of non-production and thereafter put forth their case. The Appellate Tribunal accordingly confirmed the order and dismissed the appeal.

Sri J.V. Suryanarayana, learned senior counsel representing Sri T. Lakshminarayana, learned counsel for the petitioners, would point out that Order XI Rule 16 CPC requires a notice to be given to the other party to produce documents when such documents are referred to in the other party's pleadings or affidavits. The learned senior counsel would argue that as the respondent bank did not refer to the documents in question in its pleadings, a notice cannot be issued by the petitioners under Order XI Rule 16 CPC. He would contend that the applicable provision in such circumstances is Order XI Rule 14 CPC, which authorizes the Court to order production of any document in the possession of a party.

Sri Maruti Jadav, learned counsel representing Sri B.S. Prasad, learned panel counsel for the State Bank of India, would however point out that it is the case of the petitioners themselves that they submitted the stock statement and list of debtors to the bank. He would therefore state that the copies thereof would be in the possession of the petitioners themselves and the same can be produced by them while adducing evidence. He would however concede that this would not apply to the seizure report dated 31.08.2000.

This being the factual situation, we deem it proper to close the writ petition leaving it open to the petitioners to mark their own copies of the stock statement and list of debtors, which were submitted by them to the bank on 31.07.2000 and 07.08.2000. However, as the seizure report dated 31.08.2000 would not be in their possession, we leave it open to the petitioners to avail the appropriate remedy under Order XI Rule 14 CPC for production of the same. The Debts Recovery Tribunal, Visakhapatnam, shall deal with such application, as and when filed, in accordance with law.

The writ petition is accordingly closed.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

27th JUNE, 2017.

GUDISEVA SHYAM PRASAD, J

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