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

WRIT PETITION No.35855 of 2013

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.53 of 2008 confirming the order dated 13.07.2007 passed by the Debts Recovery Tribunal, Visakhapatnam, in I.A.No.303 of 2007 in O.A.No.209 of 2002.

The said I.A. was filed by the petitioners herein under Section 22(2)(a)(b) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, read with Order XI Rule 14 CPC seeking a direction to the bank to produce the valuation report of M/s. Sohan Consultancy, Visakhapatnam, and the books of accounts of the year 2000-01 relating to the first appellant, the first petitioner herein, and to give evidence.

By order dated 13.07.2007, the Tribunal took note of the fact that the report of M/s. Sohan Consultancy was already produced and there was no objection to mark the same and that the account books were not there. The petition was therefore closed with these observations. Aggrieved thereby, the petitioners preferred M.A.No.53 of 2008 before the Appellate Tribunal. The Appellate Tribunal noticed that the valuation report in question was already marked as Ex.B.15 and took note of the submission of the bank in its counter that the books of accounts of the company for the year 2000-01 were not seized by it. 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 submit that in the light of the liberty granted to the petitioners by the Appellate Tribunal in the connected appeal in M.A.No.52 of 2008 to point out all incorrect information or inconsistencies in the said valuation report which was already marked in evidence, no further orders need to be passed for production thereof. Learned senior counsel would however submit that as the bank denied having the custody of the books of accounts, it may be left open to the petitioners to adduce suitable evidence in relation to the said accounts.

Accepting this submission, the writ petition is closed leaving it open to the petitioners to adduce suitable evidence in relation to its accounts and also point out inconsistencies and incorrect information, if any, in the valuation report (Ex.B.15).

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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