

# RAJASTHAN HIGH COURT

Paras Drugs and Chemical Industries

Vs.

UCO Bank

S.B. Civil Revision Petition No. 314/2000

(Arun Madan, J.)

01.06.2000

## JUDGMENT

**Arun Madan, J. –**

1. and learned counsel for the parties.

This revision petition has been preferred against the order dated 2.3.2000 passed by the learned Additional District Judge, Sambharlake in Civil Suit No. 176/1992, whereby the trial Court had dismissed defendants-petitioners application under Order 11 Rule 14 CPC.

2. The undisputed facts are that the plaintiff-respondent UCO Bank had filed a suit for recovery of Rs. 4,09,500/- against the defendants/petitioners, who stood as guarantors before the trial Court. Defendant Nos. 1, 3, 6, 8 and 9 filed a joint written statement denying the averments of the plaintiff and pleaded that the suit of plaintiff be dismissed with cost.

3. Thereafter on or about 19.3.1998, the defendants/petitioners filed an application before the trial Court under Order 11 Rule 14 Civil Procedure Code for issuing direction to the plaintiff-Bank for production of the following documents :-

- (i) Pledge register for the period from 14.4.1979 to 17.10.1989 which was prepared by the Bank at the time of pledging the goods of the defendants;
- (ii) Inspection note or inspection register which was made by the Bank Officers of the firm of the defendants from time to time during the period from 14.4.1979 to March, 1992;

(iii) Hindi register and bill purchase register on the basis of which the bank/plaintiff purchased the bill of the defendant firm and gave advance against it during the period from 14.4.1979 to March, 1992;

(iv) Complete correspondence with file which was prepared at the time of sanction of loan to defendants by the Bank and the letters given by the defendants during the period from 1979 to 1992;

(v) Balance sheet which was given by defendants to the Bank from 1979 to 1992;

(vi) Bill Purchase Limit Sanction 1987 to 1989 and all correspondence file which was recommended by Branch Manager.

4. The plaintiff-Bank contested the aforesaid application by filing reply on 7th September, 1998, wherein it was contended that since the inspection report is a confidential document, as such, the same should not be allowed. It was also pleaded that plaintiff has got no right to get the file of the Bank summoned and that an application has been moved to delay the matter.

5. After hearing both the parties, the trial Court vide its impugned order dated 2.3.2000 rejected the application filed by the defendants-petitioners. Hence this revision.

6. During the course of hearing, leaned counsel for the petitioners have vehemently contended that the impugned order passed by the trial Court is *ex- facie* illegal and without jurisdiction, since the production of the documents, which were sought for is within the purview and jurisdiction of the trial Court and petitioners had not sought for any fresh plea other than what they had stated in its written statement. This fact is borne out from the perusal of special pleas filed by the petitioners in support of its written statement in para 32 to 37.

7. Order 11 Rule 14 Civil Procedure Code stipulates as under :-

14. *Production of documents* - It shall be lawful for the Court, at any time during the pendency of the suit, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just."

8. The law is well settled on the subject that if sufficient cause is explained by a party seeking discovery and inspection of the documents, which are in possession and power of the contesting party, the Court can, in the interest of justice, in appropriate cases, allow the production of such documents, provided the production is necessary for just decision of the case. This fact is fortified from the observation made by the Apex Court in the matter of *M.L. Sethi v. R.P. Kapur*,<sup>1</sup> wherein it was observed that "the documents sought to be discovered need not be admissible in evidence in the enquiry or proceedings. It is sufficient if the documents would be relevant for the purpose of throwing light on the matter in controversy. Every document which will throw any light on the case is a document relating to a matter in dispute in the proceedings, though it might not be admissible in evidence. In other words, a document might be inadmissible in evidence yet it may contain information which may either directly or indirectly enable the party seeking discovery either to advance his case or damage the adversary's case or which may lead to a trial of enquiry consequences. The word 'document' in this context includes anything that is written or printed, no matter what the material may be upon which the writing or printing is inserted or imprinted.

9. The Apex Court has further affirmed this fact in the matter of *Basanagouda v. Dr. S.B. Amarkhed and others*<sup>2</sup> by observing thus :-

"The Court's power to order production of documents is coupled with discretion to examine the expediency, justness and the relevancy of the documents to the matter in question. These are relevant considerations which the court shall have to advert to and weigh before deciding to summoning the documents in possession of the party."

10. I have also perused the finding recorded by the trial Court. In my view, the same are contrary to the law well settled by the Apex Court, as stated hereinabove, which the trial Court had failed to take note of.

11. It is contended by the learned counsel for the respondents that the documents of which discovery and inspection has been sought pertain to the period prior to the settlement arrived at between the parties. It is however noteworthy to mention as to when the settlement was arrived at between the parties? However, this question is left

open to the trial Court to decide after giving the parties liberty to lead their respective evidence.

12. As a result of the above discussion, the revision petition is allowed. The impugned order dated 2.3.2000 passed by the trial Court is quashed and set aside. The trial Court is directed to expeditiously decide the matter and in any case, not later than six months from the date of submission of certified copy of this order. The summoned record be sent back to the trial Court forthwith.

Petition dismissed.

Cases Referred.

1. AIR 1972 SC 2379
2. (1992) 2 SCC 612