

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.41465 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to direct the respondents to take custody of the properties found inside the locker No.A267 with The Hongkong & Shanghai Banking Corporation Limited, Visakhapatnam Branch, standing in the name of Danda Samuel Benson or transfer the same to the Court's custody.

The case of the petitioner is that the petitioner i.e., The Hongkong & Shanghai Banking Corporation Limited, Hyderabad, is a Banking Sector and that one Danda Samuel Benson was operating the Locker No.A267 with the petitioner's Branch at Visakhapatnam and that one Danda Samuel Benson was operating the Locker No.A267 with the petitioner's branch at Visakhapatnam and that the 1st respondent registered a case in Crime No.44 of 2005 which is subsequently numbered as C.C.No.268 of 2011 under Sections 420 and 120-B IPC before the I Additional Chief Metropolitan Magistrate, Visakhapatnam, against the said Danda Samuel Benson and that the 1st respondent vide letters, dated 05.02.2005 and 07.02.2005, requested the petitioner's Branch Manager at Visakhapatnam to freeze the operation of the locker of Danda Samuel Benson in the above C.C.No.268 of 2011 until further orders and that accordingly, the operation of the said Locker No.A267 with the petitioner's Bank standing in the name of Danda Samuel Benson was frozen and that the locker is in the possession of the petitioner's Bank at Visakhapatnam Branch since 2005. The main grievance of the petitioner is that the

petitioner's Branch at Visakhapatnam is proposed to be closed on 30.11.2016 as per the directions of the Reserve Bank of India and that the petitioner's Visakhapatnam Branch operations will be shifted to Hyderabad Branch and that the information was also intimated to the 1st respondent in writing vide letters, dated 09.09.2016 and 18.10.2016, informing the 1st respondent either to move the said locker to Hyderabad Branch or to take the locker into its custody and sought for break/open of the said locker and transfer the contents to the Hyderabad Branch. The 1st respondent, in reply, vide letter, dated 18.10.2016, informed that the accused is absconding and as and when the accused is traced, charge sheet will be filed against him and that the matter is pending before the I Additional Chief Metropolitan Magistrate, Visakhapatnam and advised the petitioner to approach the said Court to get permission to break/open the locker of the accused. Aggrieved by the said action of the 1st respondent, who refused to allow the petitioner to move the locker from the petitioner's Visakhapatnam Branch to Hyderabad Branch, the present writ petition is filed.

Heard and perused the material available on record.

It is evident from the records that on the request made by the 1st respondent, the Locker No.A267, which stands in the name of Danda Samuel Benson, who is accused in C.C.No.268 of 2011, was directed to be under the custody of the petitioner's Bank and the same is also under the custody of the petitioner from the year 2005. The petitioner now intend to close the branch at Visakhapatnam and shift the operations of Visakhapatnam Branch to Hyderabad Branch and the petitioner has also informed the

same to the 1st respondent vide letters, dated 09.09.2016 and 18.10.2016, informing the 1st respondent either to move the said locker to Hyderabad Branch or to take the locker into its custody and sought for break open of the said locker and transfer the contents to the Hyderabad Branch.

Considering the said facts and circumstances, the Writ Petition is disposed of with the following direction:

Since the petitioner's Bank, vide its letters, dated 9.09.2016 and 18.10.2016, has already informed the 1st respondent either to move the Locker No.A267 belonging to one Danda Samuel Benson, who is accused in C.C.No.268 of 2011, to Hyderabad Branch or to take the locker into its custody and sought for break open of the said locker and transfer the contents to the Hyderabad Branch, the petitioner is permitted to move the said locker in the same condition and keep it in the Hyderabad Branch and the petitioner's Bank is directed to produce the same as and when required by the investigation agency during the time of trial.

Accordingly, the Writ Petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

RAJA ELANGO,J

Date: 30th November, 2016

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