NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1888 of 2015

1. Shri Sanjay Gadodia S/o Shri Sawarmaal Gadodia, Aged About 50 Years R/o Q -1, Civil Township, Rourkela, District Sundergarh, Odisha 796004

2. Smt. Sarita Gadodia, W/o Shri Sanjay Gadodia, Aged About 49 Years R/o Q -1, Civil Township, Rourkela, District Sundergarh, Odisha 796004

3. Shri Utkarsh Gadodia, S/o Shri Sanjay Gadodia, Aged About 28 Years R/o Q -1, Civil Township, Rourkela, District Sundergarh, Odisha 796004

---- Petitioner

Versus

1. Reserve Bank Of India Department Of Banking Regulations 13^{th} Floor, Central Office Building, S. Bhagat Singh Marg, Mumbai 400001

2. Punjab National Bank, Through Chief Manager, Anathalay Marg, Raigarh,

3. Assistant General Manager, Punjab National Bank, Anathalay Marg, Raigarh.

4. Committee On Willful Defaulters, Punjab National Bank, Anathalay Marg, Raigarh.

---- Respondent

For Petitioners : Shri Amit Sahni, Advocate.
For Respondent/PNB : Shri Sachin Singh Rajput, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

26/10/2015

1. Petitioner Nos.1 and 2 are guarantors for M/s Alok Ispat Pvt. Ltd. and

Petitioner No.3 has availed the credit facility of Rs.3.25 crores from the respondent No.2 Punjab National Bank (henceforth 'the Bank'). On failure by the said borrower to repay the loan amount and on further failure to make payment of interest, installments and the recalled amount, the respondent Bank has issued notice to the borrower as well as guarantors on 30.12.2014 for payment of outstanding dues failing which they shall be classified as willful defaulters.

2. Since the petitioners or borrower failed to clear the outstanding dues, the respondent Bank has identified them as willful defaulters by issuing a communication on 19.9.2015 (Annexure-P/8). It is these two communications i.e. Annexure-P/1 & P/8 which are under challenge before this Court on the ground that before identifying them as willful defaulters, the respondent Bank has not issued any notice to the petitioners in terms of RBI Guidelines which has statutory flavour. It is also put-forth that the credit facility was availed before July, 2014, therefore, the guarantors cannot be identified as willful defaulters. It is argued that since show cause notice issued on 30.12.2014 was not issued by the Committee headed by the Executive Director, consisting of 2 other senior officers of the rank of GM/DGM, the entire procedure for identifying the petitioners or for that matter the borrower as willful defaulter is arbitrary and illegal being dehors the RBI Guidelines.

3. Perusal of the papers annexed with the writ petition, particularly communication dated 19.9.2015 would indicate that the said

communication itself is a notice informing the petitioners that 'Committee on Willful Defaulters' headed by the Executive Director has identified the default as willful. It also records that if the petitioners are aggrieved by the decision of the 'Committee on Willful Defaulters', they may make representation to the Grievance Redressal Committee headed by the Chairman and Managing Director of the Bank within 15 days. If no representation is filed, the Bank would publish their names as willful defaulters to the RBI/CIBIL/other credit information Companies.

4. The petitioners instead of preferring representation before the Grievance Redressal Committee have rushed to this Court by preferring this writ petition. Even if the said representation is not statutory in nature, since the Bank has provided opportunity to the petitioners for making representation, in the considered opinion of this Court, the writ petition is not maintainable at this stage. For this, this Court would draw support from the law laid down by the Supreme Court in (2014) 5 SCC 762 {**Devi Ispat Ltd. & another Vs. State Bank of India & Others**}.

5. The writ petition is dismissed as not maintainable. However, liberty is reserved in favour of the petitioners to make a representation before the aforesaid committee within a period of 15 days from today.

Sd/-
Judge
(Prashant Kumar Mishra)

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