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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10544/2015**

Date of Judgment : 18th November, 2015

ARUN KUMAR JAIN AND ORS. Petitioners

Through : Mr. Arun Kumar Jain, Petitioner No.
1 and Mr. Amish Jain, Petitioner No.
3 in person.

versus

UNION OF INDIA AND ORS. Respondents

Through : Mr. Amrit Pal Singh, Advocate for
UOI.

Ms. Suruchi Aggarwal, Ms. Radhika
Gupta and Mr. Abhishek Sharma,
Advocates for respondent No. 3.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

CM APPL. No. 26622/2015 (Exemption)

1. Exemption allowed, subject to all just exception.
2. Application stands disposed of.

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3. Present writ petition has been filed by the petitioners under Article 226 of the Constitution of India for issuance of an order in the nature of writ of certiorari for quashing/setting aside the forged/illegal final order dated 04.02.2003 and recovery certificate dated 07.02.2003 passed by the Debt Recovery Tribunal-III and seek the following prayer :

- i. To issue an order in the nature of writ of certiorari for quashing/setting aside the forged/illegal final order dated 04.02.2003 and recovery certificate dated 07.02.2003 passed in T.A. No. 256/2002 [O.A. No. 588/1997] titled as :- Punjab & Sind Bank Vs. Jewel House India & Ors. DRT III, Delhi, as obtained by the respondent No. 3 against petitioner No. 1 by playing fraud.
 - ii. To issue an order in the nature of writ of mandamus directing the respondent No. 3 to pay to petitioners the entire amount with interest of the pledged FDR's of Rs.7,00,000/- of petitioner No. 1 which is now around of Rs.1,15,00,000/- (Rs. One Crore Fifteen Lacs Only) .
 - iii. To issue an order in the nature of writ of mandamus directing the respondent No. 1 to 3 jointly or severally to pay the compensation of the total of Rs.1000,00,00,000/- (Rs. One Thousand Crore Only) to petitioners as and by the way of damages caused to them for the tortious acts and above said various criminal activities done by hatching a pre-planned criminal conspiracy by its employees within the course of their employment.
 - iv. To pass such other orders and further orders as may be deemed necessary on the facts and in the circumstances of the case.
4. Petitioner Nos. 1 and 3 are present in person and according to them the entire file of the Debt Recovery Tribunal (DRT) containing order sheets, proceedings and documents filed by the bank including affidavits are forged and fabricated and thus the

present writ petition would be maintainable. They also submit that liberty has been granted to them in the presence of learned counsel for the Bank to approach this Court by an order dated 07.04.2014 passed by the Hon'ble Supreme Court of India.

5. Learned counsel appearing for the bank as also for Union of India submit that present writ petition is a gross abuse of process of law as the petitioners have filed various petitions including three writ petitions which were dismissed by an order dated 30.05.2011 and 06.03.2013. Learned counsel for the respondents further points out that Special Leave Petition filed against the aforesaid orders also stands dismissed. Counsel for the respondents further points out that after the order of dismissal, the petitioners again preferred a writ petition before the Hon'ble Supreme Court of India which was not listed by the Registrar and the appeal filed against the order of Registrar also stands dismissed. Learned counsel further submit that the present writ petition should be dismissed with exemplary cost as valuable time of various courts is being wasted. Additionally, it is submitted that the appeal against the final order of the DRT would lie before the DRAT which remedy has also not been exhausted.
6. Petitioners submit that availability of an alternate remedy is not an absolute bar in filing the writ petition and on account of the forgery and fabrication committed, his fundamental rights have been violated and which is against the principle of natural justice.
7. Heard the parties and counsel for the respondents.

8. We may notice that when the fourth round of litigation was instituted by the petitioners being writ petition No. 1525/2013, the Division Bench of this Court passed the following order :

“This is the fourth round of litigation initiated by the petitioner seeking to assail the order passed by the DRT in O.A. NO. 588/1997 on 04.02.2003.

The petitioners have been made liable as guarantor of the loan. No appeal was filed against this order.

It is pointed out to us that a Writ Petition (C) 3811/2011 was filed by the petitioner making multifarious prayers including challenge to the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the said Act). This writ petition was dismissed on 30.05.2011. suffice to reproduce the last paragraph of that order which reads as under:

7. We are not only perplexed but shocked how such kind of prayers can be made in a writ petition while challenging constitutional validity of a provision. Ordinarily, we would have dismissed the writ petition by imposing exemplary costs but keeping in view that the petitioner is nearing 60 years and may be in a state of anxiety and frustration, we refrain from doing so.

The writ petition is dismissed in limine.”

The petitioners Nos. 1 and 3 appearing in person state that they had filed a review petition qua this order which has also been dismissed for non-prosecution.

The second writ petition is W. P. (Crl.) 1272/2011 where once again similar allegations as made in the present petition were made i.e. that there has been tampering of judicial records and forgery thereof. The Division Bench had called for the records of the DRT in W. P. (C) 8630/2011. The allegations of the petitioners had been found to be incorrect and thus this

writ petition seeking directions against the police authorities to register FIR arising from the same allegations was dismissed on 24.05.2012.

It is stated by the petitioners that an SLP has been filed against this order but the same has not been registered.

In a third round of litigation, once again a writ petition was filed assailing the same impugned order of DRT dated 04.02.2003 being Writ Petition (Civil) 8630/2011. This petition was dismissed on 17.09.2012 with liberty to avail of remedies in accordance with law. The Division Bench trace the history of the case and observed as under:-

‘2. Notwithstanding the aforesaid history, we had entertained the writ petition on the allegations of the forgery etc. relating to the record of the DRT-III and vide interim order stayed coercive action against the petitioner. The record of the DRT was requisitioned and perused by us. Though the petitioner could not establish a case of forgery etc. in relation to the said record but thereafter the petition remain pending in attempt to bring about amicable settlement. With the said intent, notice was issued to the borrower at whose instance the petitioner had stood guarantor. However, the said notice remained unserved inspite of several efforts.

3. We are not inclined to keep this petition pending and in light of the earlier petitions preferred by the petitioner dismiss this petition with liberty however to the petitioner to seek appropriate remedies in accordance with law. The record of the DRT-III, Delhi earlier requisitioned be immediately sent back. ’

The SLP No. 36081/2012 filed against the same order is stated to have also been dismissed as no ground was made to interfere with the aforesaid order on 14.12.2012.

We are now faced with the fourth round of litigation of the petitioners persisting with the same line of proceedings and we pointed this out to the petitioners that such multifarious proceedings on the same cause amount to gross abuse of the process of the Court apart from wastage of judicial time and remedy, if any, was under the said Act but the petitioners are persistent and state that their constitutional rights have been violated.

In view of what has been set out hereinabove, we dismiss the writ petition with costs of Rs.5,000/- being an abuse of process of the Court to be paid to the respondent within 15 days from today.

9. Perusal of this order would show that similar reliefs as are being agitated in this writ petition were raised in Writ Petition (Crl.) 1272/2011 i.e. with regard to tempering of judicial record and forgery. The order would also show that the Division Bench had called for the record of DRT in W. P. (C) 8630/2011 and returned a finding that the allegations of the petitioner were found to be incorrect. The submission of the petitioners that by an order dated 07.04.2014 passed by the Hon'ble Supreme Court of India, liberty was granted to the petitioner to file the writ petition, in our view is also misplaced. The order dated 07.04.2014 passed by the Supreme Court of India reads as under :

“The instant I.A. is not maintainable. The same is accordingly dismissed.

Liberty is, however, granted to the appellants to initiate proceedings as may be available to them under the law.”

10. The Hon'ble Supreme Court of India while dismissing the I.A. filed by the petitioner granted liberty to initiate proceedings as may be available to them under the law. In our view, this liberty does not permit the petitioners to raise such issues which have already attained finality and also file the present writ petition when the prayer made in this writ petition already stands rejected. In our view, the present writ petition is not maintainable and the same is dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

NOVEMBER 18, 2015

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