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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) No.3292/2014 & CM No.14036/2016 (of the respondent no.2
for modification of the order dated 16th February, 2016).

NALINI JEWELLERS Petitioner

Through: Mr. Ranvir Singh, Ms. Roshni
Chatterjee and Mr. Ritu Raj Shahi,
Advs.

versus

STATE BANK OF INDIA & ANR Respondents

Through: Mr. Rajiv Kapur, Adv. for R-1.
Mr. Suhail Dutt, Sr. Adv. with Mr.
H.S. Parihar, Mr. Kuldeep Parihar and
Mr. Sankalp Goswami, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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21.04.2016

1. The counsels inform that the respondent no.2 Reserve Bank of India (RBI) in terms of the earlier order dated 16th February, 2016 has carried out a fresh determination dated 1st April, 2016 but which is also against the petitioner.

2. The counsel for the petitioner states that he will be taking steps for amendment of the petition and seeks adjournment.

3. I am however of the view that rather than amending the petition, the petitioner should file a fresh petition impugning the order dated 1st April, 2016 of the respondent no.2 RBI. Though the counsel for the petitioner states that since this petition has remained pending for the last two years, the petitioner be not relegated to a fresh petition but I am of the view that even if amended petition is filed by the petitioner, opportunity to the respondents

to file counter affidavits will have to be given; the respondent no.2 RBI hopefully has in the order dated 1st April, 2016 dealt with all the aspects as raised in the order dated 16th February, 2016 of this Court and the challenge to the order dated 1st April, 2016 would entail a fresh adjudication. It is however clarified that all pleas as taken by the petitioner in this petition shall remain open to the petitioner and the petitioner if files a fresh petition would also be entitled to have file of the present petition tagged thereto and need not file the record of the present petition as annexure to the new petition.

4. The petition is accordingly disposed of with liberty aforesaid to the petitioner.

5. The respondent no.2 RBI has filed CM No.14036/2016 seeking modification of paras 12 and 13 of the order dated 16th February, 2016.

6. The senior counsel for the respondent no.2 RBI has argued that discretion should be left to the respondent no.2 RBI, whether to appear in a particular case or not and particularly in cases where no reliefs are claimed against the respondent no.2 RBI.

7. My experience of the last about 3-4 months on this roster dealing with such petitions has been that the presence of the RBI is invariably required to explain its circulars/notifications relief whereunder is generally claimed in the petitions coming up before this roster. The banks which are the other respondents in the petitions invariably express their inability to explain the circulars/notifications of RBI and in fact each bank follows its own interpretation of such circulars/notifications and which does not appear to be a healthy practice. Upon the RBI choosing not to appear, this Court is compelled to, after having commenced the hearing, call for the RBI counsel

and who naturally has to take adjournment to seek instructions and/or to file an affidavit to inform the stand of the RBI. The same causes delay and results in a two tier hearing. However if the RBI continues to choose not to appear, this Court would be compelled to proceed to decide the matters in the absence of RBI and drawing its own conclusions with respect to the notifications/circulars.

8. Even otherwise, there cannot be a different procedure for the RBI as a respondent. RBI upon being made a party and being a regulatory body is expected to appear before this Court and to inform its stand, to ensure uniformity in application of its circulars/notifications by plethora of banks.

9. I am therefore of the view that there is no need for modification of paras 12 and 13 of the order dated 16th February, 2016 and CM No.14036/2016 is dismissed.

RAJIV SAHAI ENDLAW, J

APRIL 21, 2016

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