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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 435/2016 & CM No.28178/2016 (*addl. docs.*)

DEEPAK PURI & ANR Appellants
Through: Ms. Maneesha Dhir with Mr. K.P.S.
Kohli & Mr. Aseem Surup, Advs.

Versus

STATE BANK OF BIKANER & JAIPUR Respondent
Through: Ms. Kittu Bajaj & Mr. Naresh Kumar,
Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER
26.08.2016

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1. The petitioner in W.P.(C) No.6707/2016 filed this appeal against the order of the learned Single Judge dated 01.08.2016 whereby the writ petition along with CM No.27474/2016 was adjourned to 10.08.2016 to enable the respondent/Bank to file its response.
2. The said writ petition was filed seeking a direction to the respondent/Bank to defer the personal hearing to be granted to the writ petitioners in terms of the RBI Guidelines by atleast eight weeks on the health grounds of the petitioner No.1. On 01.08.2016, when the writ petition was heard by the learned Single Judge, it was represented by the learned counsel for the respondent/Bank that the hearing was already concluded and

therefore the writ petition has been rendered infructuous. To enable the respondent to file an affidavit to that effect, the learned Single Judge adjourned the matter to 10.08.2016.

3. The present appeal came to be filed on 03.08.2016 contending *inter alia* that the prayer for deferment of personal hearing being for genuine reasons, the respondent/Bank was not justified in concluding the personal hearing granted to the appellants. While pleading that the appellant No.1/petitioner No.1 has been diagnosed with cancer and has been recommended urgent surgery, it is contended that if the proceedings are concluded without hearing the appellants/petitioners and the names of the appellants are included in the list of wilful defaulters, they stand to suffer irretrievable injury.

4. When the appeal was taken up on 05.08.2016, there was no representation on behalf of the respondent/Bank. In the facts and circumstances of the case, we, therefore, while adjourning the appeal to 10.08.2016, ordered that the order if any passed in the meanwhile by the respondent/Bank shall not be given effect to. On 10.08.2016, Ms. Kittu Bajaj, the learned counsel appeared for the respondent/Bank and submitted on instructions that the respondent/Bank has decided to give an opportunity of being heard to the appellant and that the matter stands posted to 02.09.2016 for his appearance. In the light of the said decision taken by the Bank, though there was no need to keep the appeal pending any longer, on a request made by the learned counsel for the appellant, we had adjourned the matter to enable him to get instructions about the subsequent events.

5. When the matter is taken up today for consideration, it is brought to our notice by the learned counsel for both the parties that on 10.08.2016 the writ petition was heard by the learned Single Judge and the same was disposed of with directions as under:

"Ms Dhir, learned counsel appearing on behalf of the petitioners, informs me that the petitioner is currently in the United States of America undergoing surgery for Cancer of left buccal mucosa (cheek) at Memorial Sloan Kettering Cancer Center, New York (USA).

In view of the foregoing, since the personal hearing to be afforded to the petitioners is still to take place, in the interest of justice and on humanitarian ground, it is considered just, necessary and expedient to dispose of the present petition with a direction to the respondent/Bank to postpone the said personal hearing to be afforded to the petitioners beyond 02.09.2016 and on any day on or after 04.10.2016, under intimation to the petitioners.

With the above direction the writ petition is disposed of."

6. The learned counsel for the respondent, on instructions, would submit that no date has yet been fixed for hearing and soon after the date is fixed the same would be intimated to the appellants. Be that as it may, now that the writ petition itself is disposed of with directions, nothing survives for adjudication on merits in the present appeal.

Accordingly, the appeal is disposed of as infructuous.

CHIEF JUSTICE

AUGUST 26, 2016/kks
LPA 435/2016

SANGITA DHINGRA SEHGAL, J
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