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

\+ W.P.(C) 398/2018

VIPIN PALIWAL ..... Petitioner

Through Mr. Pranav Proothi, Adv. along with petitioner.

versus

R.B.I. AND ANR. ... Respondents

Through Mr. Punit K. Bhalla, Adv. for R2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **19.01.2018**

1) Respondent no. 2 has filed a counter affidavit. A perusal of the counter affidavit shows that the petitioner along with, one, Mr. Ashok Kumar Yadav availed a personal loan in which the first borrower according to the respondent no.2 was Mr. Ashok Kumar Yadav.

2) A sum of Rs. 98,000/- was availed of as loan. The loan was to be repaid by Mr. Ashok Kumar Yadav in 46 Equated Monthly Instalments (EMIs) at the rate of Rs.3,446/- each. Since, a default in payment of EMIs was committed. Respondent no.2marked a lien on the bank account maintained by the petitioner with it.

3) The lien was marked by the respondent no.2 via the impugned letter dated 15 December 2017. The total outstanding amount according to the respondent no. 2, in Consumer Loan Account

LPDEL00009269452 is a sum of Rs. 202,980/-. The impugned letter, inter alia, refers to the following condition based on which the loan was extended to the two borrowers:

> *"In addition to the general right to set off or other right conferred by law or under any other agreement, ICICI Bank may, without notice, combine or consolidate the standing balance on the loan account with any other account(s) which the loan-member maintains with ICICI Bank and its group companies, and set-ff or transfer money standing to the credit of such other account(s) in or towards the satisfaction of the loan-member's liability to ICICI Bank under his/her loan account."*

4) It is important to note that in the petition there is no reference to the fact that the petitioner was a co-borrower. In fact, there is no averment with respect to the fact that the petitioner knew the other borrower i.e., Mr. Ashok Kumar Yadav .

4.1) It is in this context that when notice was issued by me on 16 January 2018, I had asked Mr. Punit K Bhalla, who appears for the respondent no.2 as to why the impugned letter had been issued. Mr. Punit K Bhalla, at that stage, had informed me that the petitioner was a co-borrower.

4.2) Accordingly, I had directed respondent no.2 to file a reply in which apart from anything else it was required to state on affidavit what was portrayed in Court, that is, the petitioner was co-borrower.

5) It is in this background that a reply, as indicated above, has been filed by respondent no.2. Along with the reply photocopies of loan application forms, purportedly, signed by Mr. Ashok Kumar Yadav and the petitioner have been placed on record. A photocopy of the PAN

Card said to have been submitted by the petitioner has also been placed on record.

5) Given this state of affairs, I had queried the learned counsel for the petitioner as to whether or not the petitioner knew Mr. Ashok Kumar Yadav.

5.1) I have been informed by the learned counsel for the petitioner that Mr. Ashok Kumar Yadav and the petitioner had at some point in time worked in the same company i.e. Colwell & Salmon. Learned counsel for the petitioner, however, says that the signatures on the loan application form are not that of the petitioner.

6) According to me, these are matter which will have to be tried by a proper court in appropriate proceedings. These are not matters which can be tried in a writ petition.

7) Mr. Punit K Bhalla, however, unreservedly states that the lien will be limited to a sum of Rs.2,02,980/-. Mr. Bhalla clarifies that if further deposits are made, there shall be no lien on those monies.

8) In these circumstances, the writ petition is disposed of permitting operation of bank account maintained by petitioner with the respondent no.2 subject to its rights to freeze the sum of Rs. 2,02,980/-. That being said, the petitioner will be at liberty to take recourse of the appropriate proceedings and agitate his rights in accordance with law and have been lifted.

RAJIV SHAKDHER, J

JANUARY 19, 2018

Pallavi/aj