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

+ W.P.(C) 3404/2019, CM Nos. 15628/2019 & 28001/2019

ATHAR ZIA Petitioner

Through: Mr. Rishi Kapoor and Mr. Satish Rai,
Advts.

versus

BANK OF INDIA & ORS Respondents

Through: Mr. Jagat Arora, Mr. Rajat Arora,
Ms. Ritu Arora and Mr. Niraj Kumar,
Advts.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **08.07.2019**

In view of the directions given in the order dated April 3, 2019, amended memo of parties stated to have been filed in the Registry today vide Diary No. 584220. A copy of the same has been given, which is taken on record.

Mr. Kapoor, learned counsel for the petitioner states, that he shall press this petition on behalf of petitioner No.1 only.

On the last date of hearing, Mr. Jagat Arora, learned counsel appearing for the respondent Bank sought two days' time to file counter-affidavit. He has placed before me a short affidavit filed on behalf of the respondent Bank, which is taken on record. A copy of the same has been given to Mr. Kapoor.

I have heard learned counsel for the parties on the writ petition. The only submission made by Mr. Rishi Kapoor is that the impugned communication declaring the petitioner no.1 "wilful defaulter" is in violation of principle of natural justice inasmuch as the order of the

identification committee consisting of the Executive Director and two General Managers has not been given to the petitioner no.1 to enable the petitioner no. 1 represent to the review committee, for the review committee to consider the same and pass a final order. In this regard, Mr. Kapoor has relied upon the Judgment of the Supreme Court in the case of *State Bank of India v. Jah Developers Pvt. Ltd., Civil Appeal NO. 4776/2019* and *connected appeals reported as 2019 SCC Online SC 688*, wherein according to him, the Supreme Court said that a copy of the order of the identification committee needs to be given to the borrower to enable the said borrower make a representation within 15 days for the consideration of the review committee.

On the other hand, Mr. Jagat Arora, learned counsel appearing for the respondent Bank has only said that a personal hearing was not given to the petitioner no.1 as there is no requirement of giving the same. On a specific query to Mr. Arora whether the order of the identification committee was given to the petitioner no.1, the answer was in the negative.

If that be so, in view of the conclusion arrived at by the Supreme Court in the case referred above, wherein the Supreme Court has in Para 26 held as under and the fact that the order of the identification committee was not given to enable the petitioner no.1 make a representation, the impugned communication qua the petitioner no.1 Athar Zia is set aside. Liberty is with the respondent Bank to give a copy of the order passed by the identification committee to the petitioner no.1 within a week from today and seek his reply on the same within 15 days thereafter for the consideration of the same by the review committee for enabling the review committee pass a fresh order.

“xxxxxx.....Given these drastic consequences, it is clear that the Revised Circular, being in public interest, must be construed reasonably. This being so, and given the fact that paragraph 3 of the Master Circular dated 01.07.2013 permitted the borrower to make a representation within 15 days of the preliminary decision of the First Committee, we are of the view that first and foremost, the Committee comprising of the Executive Director and two other senior officials, being the First Committee, after following paragraph 3(b) of the Revised Circular dated 01.07.2015, must give its order to the borrower as soon as it is made. The borrower can then represent against such order within a period of 15 days to the Review Committee. Such written representation can be a full representation on facts and law (if any). The Review Committee must then pass a reasoned order on such representation which must then be served on the borrower. Given the fact that the earlier Master Circular dated 01.07.2013 itself considered such steps to be reasonable, we incorporate all these steps into the Revised Circular dated 01.07.2015. The impugned judgment is, therefore, set aside, and the appeals are allowed in terms of our judgment. We thank the learned Amicus Curiae, Shri Parag Tripathi, for his valuable assistance to this Court.”

In view of the aforesaid, the petition stands disposed of. The date already fixed i.e 2nd August, 2019 stands cancelled.

CM Nos. 15628/2019 & 28001/2019

Dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 08, 2019/jg