

02.12.2020

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W.P.A. 6512 of 2020
(Through Video Conference)

Santanu Sarkar
Vs.
State of West Bengal & ors.

Mr. Jayanta Samanta
Ms. Karunamoyee Samanta
... For the petitioner
Mrs. Chama Mookerjee
... For the State
Mr. Sanjit Kumar Ghosh
... For the respondent
nos.4,5,6,7,10,11 & 12

1. This is an application under Article 226 of the Constitution of India wherein the writ petitioner is praying for direction upon several banks not to make any payment to respondent nos.18 and 19 (the private respondents herein) who are directors in FCIB Enforcement and Detective Agency Pvt. Ltd. (not made a party in this writ petition).

2. Counsel on behalf of the respondent-Banks submits that this writ petition is not maintainable and is liable to be dismissed in limine. He submits that petitions are pending before the National Company Law Tribunal (in short, 'the N.C.L.T.') with regard to disputes between the petitioner and the private respondents and orders have been passed therein. He further submits that any relief that is being sought by the petitioner is required to be sought before the N.C.L.T. and not before the High Court.

3. The petitioner submits that by means of forgery, his shareholdings and directorship have been taken away and, accordingly, he prays that the respondent-Banks be directed not to disburse any funds to the private respondents.

4. I have heard learned Counsel for the appearing parties and perused the materials on record.

5. I am of the view that the petition before the High Court is an abuse of process of Court simpliciter because after coming into effect of the new Companies Act, 2013, the jurisdiction of the High Court in relation to disputes inter se shareholdings and directorship has been vested with the N.C.L.T. The very fact that petitions under Sections 241 and 242 of the Companies Act, 2013 are pending, make it clear that the petitioner can approach the N.C.L.T. for further directions and reliefs. The petitioner can very well agitate the issue of forgery before the N.C.L.T.

6. In view of the above findings, this writ petition is dismissed.

7. The petitioner is at liberty to proceed before the appropriate Forum in accordance with law.

8. There shall be no order as to costs.

9. All parties are to act on website copy of this order.

(Shekhar B. Saraf, J.)