

17.11.2020

Item No.08
Court No.03
Avijit Mitra

W.P.A. No. 9321 of 2020 (Via Video Conference)

**In re: Sunil Krishna Khaitan
- Versus -
IDBI Bank Limited & Ors.**

Mr. Imtiaz Ahmed,
Ms. Ghagala Firdous,
Ms. Smita Saha,
Ms. Shaila Afrin,
Sk. Saidullah
Ms. Arunima Mukhopadhyay
For the Petitioner

Mr. Chayan Gupta,
Mr. Kausik De,
Ms. Mohini Majumdar,
Mr. Roshan Pathak
For the Respondent nos.1 & 2

The present writ petition has been preferred primarily praying for the following relief :

" (a) Issue a Writ of/in the nature of Prohibition prohibiting the respondents and each of them and/or their men, agents, servants, staff, employees, and/or authorities and/or those acting under their and/or any of their instructions, treating your Petitioner as a willful defaulter and/or from displaying the name of your Petitioner and/or including his name as a willful defaulter and/or including his name in any such list of willful defaulters on the website of the Respondent no.3 and/or of the private Respondent or any other place as a willful defaulter and/or publication of names and photographs in the newspaper and magazines and/or from giving effect and/or further effect to the impugned Notice dated September 14, 2020 and October 17, 2020 as in Annexure "P2" and "P4" and/or from taking any step in furtherance thereof and/or in consequence thereto."

Mr. Ahmed, learned advocate appearing for the petitioner submits that the memo dated 14th September, 2020 issued by the respondent-bank is not in accordance with the Master Circular of the Reserve Bank of India (in short, RBI). According to Mr. Ahmed, no opportunity of hearing was granted by the authorities prior to issuance of the memo dated 14th September, 2020. The authorities are now intending to publish the name and photograph of the petitioner as a wilful defaulter, as would be explicit from the memo dated 17th October, 2020. In reply to the said memo, the petitioner has submitted a representation on 2nd November, 2020 but the same has also not been considered. Such action on the part of the respondents warrants interference of this Court.

Mr. Gupta, learned advocate appearing for the respondent nos. 1 and 2 submits that the writ petition itself is not maintainable and the petitioner has suppressed material facts. In response to the show-cause notice issued on 16th September, 2019 a letter dated 30th September, 2019 was issued by the petitioner with a prayer to grant time till 15th November, 2019 to file the reply. No such reply was filed.

Such fact has been suppressed in the writ petition. Let a copy of the letter dated 30th September, 2019, as placed before this Court, be kept on record.

Records reveal that a show-cause notice was issued on 16th September, 2019 but the same was not responded to. The Wilful Defaulter Committee (WDC) constituted in accordance with the RBI circular thereafter issued an order record in the fact of wilful default. The decision of the Identification Committee was conveyed to the company by memo dated 13th January, 2020 with a request to submit a written representation within 15 days. No such representation was submitted and thereafter the matter was placed before the Review Committee which reviewed and confirmed the decision of WDC on 27th August, 2020.

In the said conspectus the impugned memoranda dated 14th September, 2020 and 17th October, 2020, in the opinion of this Court, do not suffer from any violation of principles of natural justice and it is also not a case that the impugned memoranda had been issued on extraneous consideration.

In view thereof, this Court is reluctant to exercise any discretion in favour of the petitioner and the writ petition is, accordingly, dismissed.

There shall however be no order as to costs.

All parties are directed to act on the server copy of this order.

(Tapabrata Chakraborty, J.)