

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 3327 of 2019**

Krishan Mohta S/o Late Ram Chandra Mohta Aged About 49 Years R/o
Auckland Square 4th Floor Kolkata.

---- **Petitioner**

Versus

1. Bank Of Baroda A Body Corporate Formed And Constituted Under The Banking Acquisition (Transfer Of Undertaking) Act Office At 1489 Wright Town Near Manas Bhawan Jablpur Madhya Pradesh
2. Assistant General Manager Bank Of Baroda (Stressed Assets Recovery Branch) Jabalpur Office At 1489 Wright Town Near Manas Bhawan Jabalpur Madhya Pradesh.
3. Reserve Bank Of India Incorporated In Accordance With The Provisions Of The Reserve Bank Of India Act 1934 Office At Eastern Area Local Board Situated At 15 Netaji Subhas Road Kolkata.

---- **Respondents**

For Petitioner	:	Mr. Kshitij Sharma, Advocate
For Respondent/s	:	Mr. Ankit Singhal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/02/2020

1. The challenge in the present writ petition is to the order Annexure P-1 dated 01.03.2019 whereby the respondent No.1 Bank has declared the petitioner to be one of the willful defaulters and have taken a decision to proceed further against the petitioners.
2. Contention of the petitioner is that the petitioner happened to be the non executive Director in the said company and according to the petitioner he had already raised an objection/representation/submission before the Respondent on 24.10.2018 and decision of the Respondents is the one which has

been passed by way of Annexure P-1 dated 01.03.2019. Contention of the petitioner is that in the light of the judgment of the Supreme Court Hon'ble Supreme Court recently passed in the case of **State Bank of India Vs. Jah Developers Private Limited & Others, (2019) 6 SCC 787** an opportunity of making full representation and an opportunity of hearing has to be given to the objector who has approached the Review Committee and only thereafter should they proceed further. There is a specific averment made by the petitioner of having approached the Respondents and before the order Annexure P-1 dated 01.03.2019 was passed the petitioner as such was not given an opportunity of hearing.

3. Counsel for the petitioner at this juncture refers to the Judgment of the Supreme Court in the aforementioned case of **State Bank of India Vs. Jah Developers Private Limited & Others**, wherein the Supreme Court in a very categorical terms have held that the borrowers should be first allowed to make a representation to the First Committee and thereafter if the borrowers still are aggrieved of the decision, he may still approach by way of representation which shall be considered by the Review Committee.
4. Based upon the said judgment of the Supreme Court the Company itself on an earlier occasion approached this Court vide WPC 1277/2019 and where in the light of the aforesaid judgment of the Supreme Court the writ petition was allowed permitting the company to approach the Review Committee by way of a detailed representation which the Review Committee should decide by a reasoned and speaking order. Till then, the order dated 01.03.2019 Annexure P-1 should not be acted upon.

5. Given the fact that this High Court has already in WPC 1277/2019 have permitted the company to move a fresh representation to the Review Committee, this Court is of the opinion that present writ petition also can be disposed of on similar terms. Accordingly the petitioner is permitted to approach the Review Committee by way filing of the detailed representation within a period of 30 days from today, in addition to any other objection or representation that he has made. That the Review Committee in turn shall decide the same in accordance with law by reasoned and speaking order. Till the Review Committee takes a decision on the representation of the petitioner, respondents shall be restrained from proceeding further with the impugned order Annexure P-1 dated 01.03.2019.
6. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit