IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF FEBRUARY, 2020

PRESENT

THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO.1246/2019 (GM-RES-PIL)

BETWEEN

RAMESH NAIK L
S/O LATE LAKSHMAN NAIK R
AGED ABOUT 37 YEARS
KADARANAHALLI THANDYA
URDIGERE HOBLI
TUMKUR TALUK AND DISTRICT-572140 …PETITIONER

(BY SRI RAMESH NAIK L, PARTY IN PERSON)

AND

1 . RESERVE BANK OF INDIA
P.O. BOX. 901
SHAHID BHAGAT SINGH ROAD
MUMBAI-400001

REP BY REGIONAL DIRECTOR
RESERVE BANK OF INDIA

10/3/8, NRUPATHUNGA ROAD
BENGALURU-560001

2 . INDIAN BANKING ASSOCIATION (IBA)
REPRESENTED BY CHIEF EXECUTIVE
6TH FLOOR, WORLD TRADE CENTRE
CENTRE 1 BUILDING
WORLD TRADE CENTRE COMPLEX
CUFFE PARADE, MUMBAI-400005

3 . STATE OF KARNATAKA
BY CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BANGALORE-560001

…RESPONDENTS

(BY SRI VINAY GIRI, ADVOCATE FOR R-1;
R-2 - SERVED AND UNREPRESENTED;
V/O DT. 12.04.2019, SERVICE ON R-3 IS HELD SUFFICIENT)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE APPROPRIATE WRIT, DIRECTION OR ORDER TO RESPONDENT NO.1 TO DIRECT ALL THE PUBLIC SECTOR AND OTHER COMMERCIAL BANKS TO FOLLOW ITS OWN DIRECTION IN “ISSUE AND PAYMENT OF DEMAND DRAFTS” AND NOT TO CREATE HARDSHIP BY INSISTING THE CUSTOMER TO HAVE BANK ACCOUNT MANDATORILY OR BY DEMANDING ONLY THE CHEQUE PAYMENT FOR ISSUING DEMAND DRAFT UPTO ANY AMOUNT LESS THAN RS. 50,000/- AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, CHIEF JUSTICE MADE THE FOLLOWING:

ORDER

Heard the petitioner appearing in person who is a member of the Bar.

2. There are only two prayers made in this petition which read thus:

> "1. Issue appropriate writ, direction or order to Respondent number 1 to direct all the public sector and other commercial banks to follow its own direction in "Issue and Payment of Demand Drafts" and not to create hardship by insisting the customer to have bank account mandatorily or by demanding only the cheque payment for issuing Demand Draft up to any amount less than Rs, 50,000/.
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> 2. Pass such other order or orders as this Hon'ble Court deems fit to grant in the facts and circumstances of the case, so as to meet the ends of justice and equity."

3. The first respondent is the Reserve Bank of India. On 1st July 2015, the first respondent issued a Master Circular on Customer Service in Banks to all the scheduled commercial banks in the country. The extract of the Master Circular is annexed as Annexure-R1 to the statement of objections filed by the first respondent. Clause 12.2.1 thereof deals with issue of Demand Drafts. There is a direction issued by the Reserve Bank of India

that the banks should ensure that drafts of small amounts are issued by their branches against cash to all customers irrespective of the fact whether they are having accounts with the banks or not. It is further stated that banks' counter staff should not refuse to accept small denomination notes from the customers (or non-customers) for issuance of demand drafts. There is also an advise issued in the communication dated 1st July 2015 by the first respondent to all the scheduled commercial banks to ensure that copies of the circular are available in all their branches so that the customers can peruse the same.

4. Thus, a direction has been issued by the first respondent to all the scheduled commercial banks in terms of Clause 12.2.1 of the Master Circular. Hence, it is not necessary to issue a writ in terms of prayer 1.

5. The petitioner submits that in view of the general prayer incorporated in prayer 2, a writ of mandamus may be issued to all the banks to follow the aforesaid clause in the Master Circular of the first respondent –Reserve Bank of India. When we made a query whether a writ of mandamus can be issued against all the banks firstly, because the banks are not parties and

secondly, because there is no specific prayer to issue a writ of mandamus against the banks, the petitioner submitted that he has impleaded Indian Banking Association as the second respondent which is an Association of all the Banks and therefore, the second respondent is entitled to represent all the Banks. He further submitted that it is not necessary for him to make the banks as parties as any direction as the Court deems fit may be issued in terms of prayer 2.

6. The petitioner is seeking a writ of mandamus against various banks. Though the second respondent may be an Association of the banks, in absence of the banks, we cannot issue a writ of mandamus to the banks. Even if a writ of mandamus is issued against the second respondent, it will not be binding on the banks.

7. If the petitioner wants a writ of mandamus to be issued against particular banks, the banks against whom he wants direction are certainly necessary parties to the petition. In absence of necessary parties before the Court, we are unable to issue any such direction against the banks.

8. Therefore, by observing that prayer 1 is worked out in view of the Master Circular of the first respondent circulated to all the scheduled commercial banks on 1st July 2015, it is not necessary to issue any writ of mandamus against the first respondent.

Accordingly, the writ petition is disposed of.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

bkv