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

+ W.P.(C) 5945/2020 and CM Nos. 21476-21477/2020

SUNITA MOWDGAL

..... Petitioner

Through Ms. Maneesha Dhir, Adv. along with
Mr. Karan Batura, Adv.

versus

CENTRAL BANK OF INDIA & ANR.

..... Respondent

Through Mr.O.P. Gaggar, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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03.09.2020

This hearing is conducted through Video-Conferencing.

1. This writ petition is filed by the petitioner seeking an appropriate direction to quash/set aside the communication dated 26.08.2020 issued by respondent No. 1 Bank.
2. It is the case of the petitioner that she was in 2011 appointed as an Independent Non-Executive Additional Director on the Board of the Company-Moser Baer Solar Ltd. Later on, the designation of the petitioner was changed to Independent Non-Executive Director. In the meantime, Corporate Insolvency Resolution Process was started for the company in question. The Company is also said to be under liquidation proceedings as per order of the NCLT.
3. A show cause notice was issued on 01.07.2020 by respondent No. 1 to the petitioner to show cause as to why the petitioner should not be treated as

a wilful defaulter. The petitioner has filed her reply on 13.07.2020 stating that she is an Independent Non-Executive Director and was not involved in the day to day affairs of the Company. It is pleaded that Independent Non-Executive Directors cannot be held guilty as is sought to be done by respondent No. 1 Bank.

4. The grievance of the petitioner is that on 26.08.2020 a communication has been received from respondent No. 1 Bank declaring the petitioner as a wilful defaulter without declaring the company in question as a wilful defaulter and without providing an opportunity of personal hearing.

5. Issue notice.

6. Learned counsel for respondent No. 1 and 2 accept notice.

7. Learned counsel for respondent No. 1 on instructions states that the petitioner has yet not been declared as a wilful defaulter and the matter is pending before the appropriate Committee. He further states that respondent No. 1 will abide by the law as laid down by the Supreme Court in the case of *State Bank of India vs. M/s Jah Developers Private Limited and Ors., (2019) 6 SCC 787* before further steps are taken with regard to the issue of declaration of the petitioner as a wilful defaulter or not.

8. Binding respondent No.1 to the above, nothing further survives in this petition. The petition is accordingly disposed of. Pending applications also stand disposed of.

JAYANT NATH, J

SEPTEMBER 3, 2020

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