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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6520/2019 & CM No.27557-58/2019**

M/S. RANGOLI INTERNATIONAL PVT LTD Petitioner
Through: Mr. Saurabh Kirpal with Mr.
Manohar Malik, Ms. Nupoor Maharaj
and Mr. Rajkanwar Singh, Advs.

versus

BANK OF INDIA Respondent
Through: Mr. Karan Khanna with Ms. Asmita
Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

22.01.2020

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1. The substantive prayer made in the writ petition is as follows:

“a) issue a writ, order or direction in the nature of Certiorari quashing and set aside the letter dated 13.02.2018 and the impugned action of Respondent declaring and classifying the Petitioner as "Wilful Defaulter" for being unconstitutional, arbitrary and against the principles of natural justice and in violation of RBI Master Circular dated 01.07.2015.”

2. Notice in this writ petition was issued on 31.5.2019 since then, the respondent bank has filed an affidavit in the matter.

3. Mr. Saurabh Kirpal, who appears for the petitioner, has confined his argument to a single ground, which is, that no opportunity was given to the petitioner to make a representation before the Review Committee, as constituted under the RBI Master Circular dated 1.7.2015, before confirming the order of the Identification Committee dated 20.12.2016.

4. A perusal of the impugned order dated 13.2.2018 shows that the Review Committee has proceeded on the basis that it need not give any opportunity to the petitioner to make representation once Identification Committee concludes that the petitioner is indeed a wilful defaulter, as contemplated in the aforementioned circular of the RBI.

4.1 This position is contrary to the principles of natural justice and the view taken by the Supreme Court in a recent judgment in *State Bank of India v. Jah Developers Pvt. Ltd. and Ors* (Civil Appeal No. 4776/2019).

5. The argument advanced by the respondent bank and various other banks that there was no necessity to give any such opportunity to delinquent debtors prior to the judgment of the Supreme Court, in my view, is flawed. The aforementioned judgment of the Supreme Court only deals with law as it always was. The judgment does not say that it would apply prospectively. The judgment only declares the law.

5. Mr. Karan Khanna, who appears for the respondent bank, cannot but accept that the Review Committee did not give any opportunity to the petitioner to make a representation. Mr. Khanna says that since the Identification Committee gave an opportunity to the petitioner, that would suffice. To my mind, that is an incorrect appreciation of the law.

6. Therefore, the impugned order is set aside. The respondent bank, to avoid any other objections on that score, will furnish a copy of the order dated 20.12.2016 passed by the Identification Committee within a period of 10 days from date of receipt of a copy of this order.

6.1 Furthermore, the respondent bank will also furnish all such

documents including a copy of the forensic report, if not already furnished, to the petitioner within the same timeframe.

7. The petitioner will have liberty to make a representation within 15 days from the date of the receipt of a copy of the Identification Committee order dated 20.12.2016 along with other documents as indicated hereinabove.

8. The Review Committee will accord personal hearing to the authorized representative of the petitioner. The hearing will be held on 6.3.2020 at 11.00 A.M. at Star House-I, C-5, G Block, Bandra Kurla Complex, Bandra (East), Mumbai – 400051.

9. In case for some reason, the aforementioned date is not convenient to the Review Committee, it will fix another date for hearing, which would be proximate to the aforementioned date. Prior intimation in that behalf will be given to the petitioner.

10. The Review Committee, after hearing the authorized representative of the petitioner, will pass a speaking order. A copy of the same will be furnished to the petitioner.

11. The captioned writ petition is disposed of in the aforementioned terms.

12. Resultantly, pending applications i.e. CM No.27557-58/2019 shall stand closed.

RAJIV SHAKDHER, J

JANUARY 22, 2020/pmc