S/L 06
17.03.2021
Court. No. 16
suvayan

WPA 6835 of 2021

Goldview Vyapaar Private Limited
Vs.
Union of India & Ors.

(Through Video Conference)

Mrs. Rashmi Singhee
Mr. Avishek Das ...Advocates
... for the Petitioner.

Mr. Krishnendu Dutta
Mr. Parag Maini
Mr. Rohit Das
Ms. Kishwar Rahman
Mr. Abhimanyu Chopra
Mr. Ragav Chaddha ...Advocates
... for the Respondent No.3 & 4.

Affidavit of service filed in Court today, is kept on record.

The writ petitioner claims to be a corporate guarantor in respect of a loan sanctioned by the third/fourth respondent in favour of the fifth respondent. The fifth respondent is the principle borrower. The loan was sanctioned from Pala Branch, Pala, Kottayam, Kerala. The loan was received by the fifth respondent at Kerala. The writ petitioner submits that, the account of the fifth respondent was declared as Non Performing Assets (for short NPA) in violation of the applicable law. The writ petitioner being the guarantor was also served with recovery notice. The bank had initiated recovery proceeding under the Debts Due to Banks and Financial Institutions Act, 1993 which was registered as OA No.542 of 2019, pending before Debts

Recovery Tribunal, Kochi. It was submitted that the bank has also initiated a proceeding under Section 7 of the Insolvency and Bankruptcy Code, 2016 against the writ petitioner, which is pending before the National Company Law Tribunal, Kolkata. The basis of this writ petition is a challenge that the declaration of the loan account as NPA was done in violation of the applicable and relevant provisions of law, hence this writ petition.

In fact, the writ petitioner made a representation before the bank on January 11, 2021 which was replied to by the bank by its letter dated January 30, 2021. The said letter dated January 11, 2021 was also addressed at the office of the bank at Kottayam in the State of Kerala wherefrom the said reply dated January 30, 2021 was issued. The reliefs claimed in the writ petition shows that the writ petitioner, inter alia, prayed for quashing of this reply dated January 30, 2021 and of course the contention of the bank mentioned therein.

Mr. Krishnendu Dutta, learned Advocate representing the Respondent No.3/4, at the outset took the point of territorial jurisdiction and submitted that this Court is lacking of territorial jurisdiction to entertain, receive and adjudicate upon the writ petition. Mr. Dutta submitted that, entire loan transaction took place in the State of Kerala. The declaration of NPA also took place in the State of Kerala and the said two letters as mentioned above in respect whereof reliefs are claimed in the writ petition were also addressed to the bank at Kerala and reply by the bank from Kerala respectively.

Thus, this Court should not entertain this writ petition as the territorial jurisdiction of this Court does not permit the same to be entertained.

The writ petitioner, per contra, submitted that the registered office of the petitioner is within the jurisdiction of this Court. Therefore, the writ petition can be maintained before this Court in terms of Article 226 (2) of the Constitution of India. She submitted that, part of cause of action arose within the territorial limit of this Court so this writ petition can be entertained.

After hearing the parties and on perusal of the averments made in the writ petition, this Court is of the view that, the entire cause of action as pleaded in the writ petition arose at Kerala and no part of it or integral part of it arose within the territorial limit of this Court. Mere situation of the registered office of a company, which is the petitioner, does not suffice to attract the territorial jurisdiction of this Court in the facts and circumstances of this case.

In view of the above, the present writ petition being WPA 6835 of 2021 stands dismissed.

It is, however, made clear that this Court has not gone into the merits of the writ petition.

There shall, however, be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Aniruddha Roy, J.)