

15.09.2021
Item No.10
Ct. No.7
CHC

**C.O.1130 of 2021
(Via Video Conference)**

**Pranoy Kumar Bhattacharjee
Vs.
Allahabad Bank & ors.**

Mr. Pratyush Patwari
...for the petitioner

Mr. Om Narayan Rai
...for the opposite party no.1

The impugned order dated 20th April, 2021, passed by the Debts Recovery Tribunal 1, Kolkata in a case being No. RC 39 of 2020, allowing substitution application taken out by certificate holder Bank upon filing IA No.186 of 2021, and thereby declining to recognize appearance of certificate debtor no.1, who already furnished his Vakalatnama in the referred recovery proceeding case on 19th February, 2021, is the subject of challenge in this revisional application.

Learned advocate for the petitioner submits that the concerned Debts Recovery Tribunal ought not to have allowed the substitution application on the prayer of the original certificate holder Bank without recognizing the appearance of certificate debtor no.1, who already appeared and furnished his

Vakalatnama in the referred case on 19th February, 2021.

Learned advocate for the petitioner is very much vocal in his submission alleging that the concerned Debts Recovery Tribunal has committed gross illegality in allowing substitution application upon refusing the appearance of the certificate debtor no.1, who has strong case to challenge the instant recovery proceeding.

Per contra, learned advocate representing the opposite party no.1 submits that pursuant to the direction of Union of India, allowing amalgamation of the two banks, shown in the order impugned, a formal application for substitution was filed, which was allowed by the concerned Debts Recovery Tribunal, and there lies nothing to be interfered with even in exercise of jurisdiction, as available to this Court under Article 227 of the Constitution of India.

Upon perusal of the impugned order, it appears that since Vakalatnama could not be available in the file concerned, placed before the concerned Debts Recovery Tribunal, the appearance of certificate debtor no.1 could not be accepted, though a Vakalatnama for the purpose was filed on 19th February, 2021.

When learned advocate for the certificate debtor no.1 entered his appearance upon prior filing of a

Vakalatnama to challenge the legality of the recovery proceeding, the concerned Debts Recovery Tribunal ought not to have allowed the substitution application of the original certificate holder Bank merely for the non-existence of the Vakalatnama in the file concerned, placed before the Tribunal

For the reasons, as aforesaid mentioned, the impugned order allowing substitution is set aside with direction upon the concerned Tribunal to rehear the substitution application as expeditiously as possible, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournment, unless it is extremely unavoidable, so that the point sought to be addressed, may be duly decided in accordance with the provisions of law.

With this observation/direction, the instant revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)