ORDER SHEET
WPO NO. 114 OF 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

CHANDAN TRIPATHI & ANR.
Versus
PUNJAB NATIONAL BANK & ORS.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 8th April , 2021

Appearance :
Mr. Jishnu Saha, Sr. Adv.,
Ms. R. Kajaria,
Mr. Ishaan Saha,
Mr. Uttam Sharma, Advs.,
for the petitioner.

Ms. Aparajita Rao,
Ms. Pallavi Gandhi, Advs.,
for the respondent nos.1 to 3.

The Court : Despite service, none appears for the Ombudsman, although the petitioners and the bank are represented through Counsel.

Learned Senior Counsel for the petitioners submits that after restructuring of the accounts of the petitioners by the respondent nos.1, 2 and 3, interest was being charged from the petitioners at an excessive rate, beyond the directives of the Reserve Bank of India.

Learned Senior Counsel submits that a suit has already been filed on behalf of the petitioners, which is now pending. In the said suit, a co-ordinate Bench had directed the matter to be referred to the Corporate Debt Restructuring Cell. However, subsequently, such consideration did not fructify in view of the Reserve Bank clarifying that there was no subsisting regulatory mandate for continuing with the CDR forum referred to in the communication issued by the petitioners.

Learned Senior Counsel submits that, having no other alternative, the petitioners approached the Banking Ombudsman alleging violation under clause 8(2)(a) and (d) in particular of the Banking Ombudsman Scheme, 2006. However, the said representation, annexed at page 143 of the writ petition, has not been considered by the Banking Ombudsman. Learned Senior Counsel prays for direction on the Banking Ombudsman to consider the representation of the petitioners expeditiously.

Learned Counsel appearing for the respondent nos.1, 2 and 3 submits that the petitioners have been blowing hot and cold in the same breath by proceeding with the suit on the one hand and seeking a decision by the Ombudsman on the other. It is submitted that the substantial challenge to the rate of interest being charged is the subject-matter of the suit itself.

Upon considering the submissions of learned Counsel for both the sides, it appears that the limited directions sought for in the representation does not, in any way, prejudice the fate of the pending suit, which pertains to the substantial adjudication of the legality of the rate of interest charged by the respondent-bank from the petitioners after restructuring took place.

That apart, since the CDR was dismantled even as per the communication of the RBI as annexed to the writ petition, there was no scope for the petitioners to implement the interim order passed by the co-ordinate Bench in the suit for seeking a decision from the CDR. Although, as per the respondent nos.1 to 3, the petitioners have already approached the Joint Lenders' Forum, which provides an alternative remedy to the CDR, since the grievances raised by the petitioners *prima facie* fall within the grounds contemplated under the Banking Ombudsman Scheme, 2006, there is no reason why the Ombudsman sat tight over the petitioners' representation dated November 25, 2020.

In such view of the matter, WPO 114 of 2021 is disposed of by directing the respondent no.4 to decide upon the petitioners' representation, being Annexure-P7 at page 143 of the writ petition, dated November 25, 2020, on its own merits in accordance with law, upon giving appropriate opportunity of hearing to the contesting parties as expeditiously as possible, preferably within two months from the date of communication of this order to the said respondent.

It is made clear that this Court has not entered into the merits of the conflicting claims of the petitioners and the respondent-bank in either the suit or in any other proceeding which are pending at present or may be taken out in future.

No order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

S.Das
AR[CR]