

MAT 388 2022
With
CAN 1 of 2022

Bank of Baroda & Anr.
Vs.
Varun Dinodiya @ Varun Agarwal & Ors.

Mr. Dipanjan Datta
Mr. Sayan Datta
Mr. Subhajit Chowdhury

... ... for the appellants

Mr. Debasish Ray
Mr. Phiroze Edulji
Mr. Koushik Kundu

... ... for the respondents

By this appeal the respondent no.1 in the writ petition has challenged the order of the learned Single Judge dated 24.02.2022 whereby WPA 11243 of 2021 has been disposed of by permitting respondent no.1 herein (writ petitioner) to travel abroad.

The respondent no.1(writ petitioner) had approached the Writ Court seeking a direction to the appellant and other respondent authorities to leave the embargo imposed upon the writ petitioner from travelling abroad.

In short, the writ petitioner was the guarantor in respect of the loan obtained by one M/s. R. Piyarelal International Private Limited and the account of the borrower was declared as non performing asset and the proceedings were initiated against the borrower and also the guarantor by the appellant bank under Section 19 of the Recovery of Debts Due to Banks and Bankruptcy Act, 1993 by filing OA No. 376 of 2014.

The respondent no.1 was deboarded from the flight on 11th May, 2021 on account of the Look Out Circular issued at the instance of the appellant bank. Hence, he had approached the Writ Court.

Learned Single Judge has taken note of the fact that after initiating the proceedings before the DRT the respondent no.1(writ petitioner) had travelled abroad as many as 30 times and had come back and that the appellant bank had not taken any steps in the pending proceeding before the DRT to prevent respondent no.1 from leaving the country.

Learned Single Judge has also considered the fact that the respondent no.1 is required to travel abroad for the purpose of his employment and livelihood.

In these circumstances, learned Single Judge has allowed respondent no.1 to travel abroad with intimation to the appellant bank about the dates of travel and the place of his residence abroad at least a fortnight prior to the date of travel.

Learned Single Judge has also made it clear that the order impugned will not come in the way of the bank in approaching the appropriate forum for obtaining order of travel plans of respondent no.1 in accordance with law.

At this stage, a limited submission has been made by the learned counsel for the appellants that the respondent no.1(writ petitioner) should secure the amount which is due to the bank as a condition for permission to travel abroad.

The prayer has been opposed by the learned counsel for the respondent no.1(writ petitioner) by submitting that after the order of the learned Single Judge the respondent no.1 has already left for UK where he is working. He has also produced a copy of the application which has been filed by the appellants before the DRT, Kolkata in terms of the liberty which was granted by the learned Single Judge.

The application reveals that the appellant bank has already approached the DRT for attachment of the account linked with the PAN card of the respondent no.1 i.e. Demat Accounts, Savings Accounts, Share, Mutual Fund, NRE/NRO Accounts for the purpose of details of assets and properties of the said respondent.

A prayer before the Tribunal has already been made to direct the respondent no.1 to file a comprehensive affidavit disclosing the details of all his assets along with the documentary evidence for the purpose of attachment before the judgement.

Hence, we are of the view that the appellants have now resorted to the remedy for the purpose of securing the amount before the Tribunal, therefore in this appeal the said direction is not required.

As the appellants have already approached the DRT, they will be at liberty to prosecute their application and we expect that the DRT will decide the application expeditiously in accordance with law.

Having regard to the detailed reasons which have been given by the learned Single Judge for permitting the respondent no.1 to travel abroad, we are of the opinion that the order passed by the learned Single Judge does not require any interference.

The appeal is accordingly dismissed.

Connected application is also dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)