S/L. 8.
August 25, 2022.
MNS.

WPA No. 10095 of 2022

Md. Yonus
Vs.
Union of India and others

Mr. S. Banerjee,
Mr. Golam Sayedain Kaderi

… for the petitioner.

Ms. Deblina Lahiri,
Mr. Mrinmoy Chatterjee

…for the respondent-Bank.

Mr. Pratip Kumar Chatterjee

…for the private respondent no. 5.

Affidavit-of-service filed in Court today be kept on record.

Learned counsel for the petitioner contends that, *de hors* the Banking Rules, which stipulate that a joint account can be closed on the request of the joint signatories, the respondent-Bank, in the present case, acted on a stop-payment instruction of the private respondent (petitioner's wife) as well as the petitioner. However, when the petitioner requested the Bank to resume the transactions, the request was refused by the Bank.

It is submitted that such refusal by the Bank was improper and *de hors* the law and the account could not be closed, in the first place, without joint instructions of both the account holders, that is, the petitioner and the private respondent.

Learned counsel appearing for the Bank contends that the writ petition has been filed suppressing certain germane facts. Initially, it is submitted, both the petitioner and the private respondent had asked for a stop-payment by giving such letters to the Bank. Photocopies of such letters, which have been handed over in Court, be kept on record.

Subsequently, the petitioner had challenged the closure of the bank account at the behest of the private respondent– wife. However, upon being directed to implead the private respondent- wife, the petitioner withdrew the writ petition without liberty to sue afresh on the same cause of action.

Learned counsel hands over server copies of orders dated August 6, 2021 and March 2, 2022 respectively, both passed in WPA 393 of 2021, in support of her contentions.

It is, thus, submitted that the petitioner is now debarred from challenging the act of the Bank in stopping the payment on the instruction of one of the account holders, that is, the private respondent.

It is further contended that the Banking Rules pertain to "closure" of joint account, as opposed to the present case, where the account is still open, but has been suspended on the instruction of one of the account holders.

Learned counsel appearing for the private respondent submits that the petitioner, in order to harass the private respondent-wife due to estranged relation between the parties, has preferred the present writ petition.

Previously, it is argued, the petitioner had forged the signature of the private respondent and had given a letter in the name of the private respondent to the Bank for stopping payment, to deprive the petitioner from using the said account, unlawfully. Having failed, the petitioner had preferred a writ petition and in the said writ petition, it is seen from the records, when the petitioner was directed to implead the present private respondent, the petitioner withdrew the said writ petition without liberty to sue afresh on the self-same cause of action.

As such, it is contended that the present writ petition is harassive in nature and since the petitioner has not come with clean hands, the writ petition should be dismissed outright.

Upon considering the contentions of the parties, it transpires that the argument of the Bank that the Banking Rules-in-question pertain to closure of accounts, which is different from the present case of stopping payment temporarily, is more acceptable than that advanced by the petitioner.

That apart, the conduct of the petitioner is reprehensible inasmuch as the petitioner suppressed in the present writ petition that the previous writ petition, challenging the stopping of operation of the bank account at the unilateral request of the wife, was withdrawn and such withdrawal, it is to be noted, was subsequent to a direction on the petitioner to implead the private respondent–wife in the said writ petition.

The withdrawal was without liberty to sue afresh and, hence, in principle, curtails the right of the petitioner to create a new cause of action by impleading the private respondent and thereafter challenging the refusal of the Bank to resume the account by way of another writ petition.

The chain of events comprising the causes of actions of the previous writ petition and the present writ petition belong to a common transaction and a single series of transactions and, as such, the petitioner cannot be permitted at this juncture to sue afresh on the same cause of action as the previous writ petition.

Moreover, since the private respondent – wife has claimed that an application under Section 125 of the Code of Criminal Procedure is pending at the instance of the private respondent against the petitioner-husband, the ultimate outcome of the same may be prejudiced if, at this premature juncture, the account is allowed to be operated, thereby potentially allowing the petitioner-husband to siphon off the amount deposited in the said account.

Although such apprehension applies both to the petitioner and the private respondent, however, since the account has been closed and the same was challenged but the challenge was withdrawn subsequently without leave to sue afresh on the self-same cause of action, I decline to interfere with the present refusal of the Bank to reopen the account and make the same running on the request of the petitioner.

Accordingly, WPA No. 10095 of 2022 is dismissed on contest.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)