

10 06.09.
AG 2022
M
RKB
Ct
07

C.O.1741 of 2022

**Branch Manager, Nadia District Central Co-
operative Bank Limited, Santipur Branch
Vs
Narayan Debnath & Ors.**

Mr. Soumyadeep Biswas ... For the petitioner.

Mrs. Sohini Chakraborty ... for the O.P No.1

Mr. Triptimoy Talukder,
Mr. Diptomoy Talukder,
Mr. Abhiraj Tarafdar. ... for the opposite parties.

Subject matter of challenge in this revisional application is against the order dated 17th May, 2022 passed by the learned Civil Judge (Junior Division), 2nd Court, Ranaghat in Money Execution Case being No. 1 of 1997, directing Receiver to disburse the amount from the account of the judgment-debtor (Santipur Co-operative Cold Storage Society Ltd.) in favour of the decree-holder.

Admittedly, decree-holder has obtained a award amounting to Rs. 10,60,416/- (Ten lakh sixty thousand four hundred sixteen) as many as 25 years before.

The award was put into the execution.

The judgment-debtor maintained a bank account with the petitioner's bank, namely Nadia District Central Co-operative Bank Limited, Santipur

Branch having account No. 111003820907. A report was called for from the Branch Manager, Nadia District Central Co-operative Bank Limited, Santipur Branch, as to what prevented, the Branch Manager from disbursing the amount from the account maintained by the Jdr. in the petitioner's bank.

A report was submitted thereafter disclosing the reasons therein, with which the court below was not satisfied with and appointed a receiver with a further direction, by the order impugned, to disburse the amount referred hereinabove from the petitioner's bank branch to the decree-holder deducting the sum from the judgment-debtor's account.

Further admitted position is that the petitioner's bank is neither a party to the arbitration, nor a party to the execution proceeding.

Learned advocate for the petitioner/bank submits that there are certain restrictions imposed to make a dormant account operative, as per guideline prescribed by the R.B.I., and the petitioner bank cannot straightway disburse the amount without complying with the guidelines of R.B.I 2009 read with notification issued by Government of West Bengal, Co-operation Department dated 18th March, 2009.

It is further submitted that in due discharge of the obligation of petitioner/bank, a notice has been issued to the judgment-debtor asking him to take appropriate steps for making his dormant account operative. There is a supervisory body prescribed to look into the affairs of the petitioner's bank, as per notification published by the Government of West Bengal Co-operation Department dated 18th March, 2009.

It is contended by the learned advocate for the petitioner that without adhering to the rules prescribed by R.B.I, a dormant account thus cannot be made automatically operative, and for which the petitioner/ bank cannot be blamed unilaterally.

It is further submitted by the petitioner/ bank that bank is ready to disburse the amount, subject to making due adherence to the rules prescribed by R.B.I. for making a dormant account operative.

Incidentally, it is submitted by the learned advocate for the petitioner that the problems faced by the bank, and the inability on the part of the petitioner/ bank to disburse the amount was brought to the notice of the court below, furnishing sufficient documents, but that has not been properly taken care of by the court below.

Per contra, Mrs. Sohini Chakraborty, learned advocate appearing for the respondent no.1/decre-

holder disputes with the submission raised by the petitioner/ bank raising preliminary objection as to the maintainability of the instant revisional application.

It is submitted by Mrs. Chakraborty that the instant application is not maintainable, because impugned order is appealable one under Order 43 Rule 1(s) of the Code of Civil Procedure.

It is also submitted by opposite parties that decree-holder is getting frustrated in spite of having obtained an award about 25 years before. The technicalities raised by the petitioner could have been addressed by the petitioner/ bank itself, but that has not been exercised by the petitioner/ bank in the meantime.

Mere issuance of a notice if any, on the part of the petitioner/ bank upon the judgment-debtor would not itself exonerate the petitioner/bank from its liability to make a dormant account operative, bearing in mind that an arbitral award has already granted in this case, and the impugned order has been passed by the court below in connection with a money execution case.

Having considered the submission of both sides, it appears that in view of some guidelines prescribed by the R.B.I. as mentioned hereinabove, the petitioner/ bank found to difficult to disburse the

amount unilaterally without doing compliance of such guidelines, in connection with the referred money execution case.

Instant revisional application is not against the appointment of Receiver, but purely against the mode and manner of fastening liability upon petitioner/bank to disburse money from an account of Jdr., which has become dormant.

There is some restrictions imposed as per guidelines prescribed by the R.B.I in 2009, read with guidelines prescribed for Rashtriya Krishi Vikas Yojana, vide notification dated 18th March, 2009, published by Government of West Bengal Co-operation Department operative over the field.

Upon perusal of the impugned order, it appears that there is no reflection in the order impugned about consideration of the disability or the difficulties being faced by the petitioner/ bank to disburse the arbitral award.

In a position like this, the petitioner's bank may not be unilaterally blamed for disbursing the proposed amount, from the account of the judgment-debtor maintained by the petitioner/bank, when there is some rules prescribed for making dormant account operative/alive requiring compliance.

The order of making appointment Rreceiver is not under challenge virtually in this case.

For the discussion made hereinabove, the order dated 17th May, 2022 passed in Money Execution Case No. 1 of 1997 of learned Civil Judge (Junior Division), 2nd Court, Ranaghat is set aside, with a direction upon the court below to hear out the report afresh submitted by the petitioner/ bank manager, in context with the 2009 guidelines prescribed by R.B.I., together with the notification dated 18th March, 2009 issued by the Government of West Bengal Co-operation Department, dealing with money to be spent for implementation of Rashtriya Krishi Vikas Yojana, within six weeks from the date of communication of this order, but without granting unnecessary adjournments, unless it is unavoidable.

In the meantime formalities if there be any, on the part of the petitioner/ bank may be undertaken, furnishing a report afresh, before the court below on the date, to be scheduled by the Court below.

Parties are directed to make communication of this order to the learned court below.

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

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)