

13.05.2022
sk, ct.22
sl.32

W.P. No. 13085 (W) of 2007
Swapam Kumar Maity
Vs.
Indian Bank(formerly Allahabad Bank & Ors.

Mr. Aninda Sarcar
.....for the petitioner.

Mr. Om Narayan Rai
...for the respondent Bank No. 1.

Mr. Angshuman Chakraborty
Mr. Shivaji Mitra
..... for the respondent no. 2.

Mr. Tarun Kr. Ghosh
Ms. Rupsha Chakraborty
...for the State.

The writ petitioner claims that he maintains a D-Mat account with the first respondent Bank. The second respondent according to the writ petitioner was the alleged transferor of some shares of a limited company and the writ petitioner was the alleged transferee/purchaser.

Disputes and differences arose between the petitioner and the second respondent relating to such share transaction. The second respondent initiated criminal proceeding against the writ petitioner and the writ petitioner also initiated criminal proceeding against the second respondent. Meanwhile, the second respondent died on July 7, 2009 and his heirs had been substituted in the writ petition.

The criminal case being Chetla P.S. Case No. 34 dated June 13, 2006 initiated by the second respondent, when he was alive, is still pending before the jurisdictional Criminal Court at Alipore. Trial is in progress. Next date of trial is fixed on May 27, 2022.

The writ petitioner is aggrieved because the first respondent/Bank had frozen his D-Mat account, pursuant to the directions made by the concerned police authorities in terms of a notice dated 14th June, 2006 issued under Section 91 of the Code of Criminal Procedure, 1973.

The petitioner's case is that freezing of such account by the bank authority is wholly illegal, wrongful and is not sustainable in law. Thus, the writ petitioner filed this writ petition seeking cancellation of the said freezing of D-MAT account.

Learned Counsel appearing for the second respondent denied these facts and submitted that there was a serious question of fraud involved, resulting into the said police case, where the petitioner was actively involved.

Learned Counsel appearing for the bank submitted that they had frozen the accounts pursuant to the instructions from the concerned police authority in view of the fact that the said criminal case being pending.

After hearing the learned Counsels for the parties and upon perusal of records and the pleadings filed by

the parties, it appears to this court that the claim of the writ petitioner involves several questions of facts which are required to be adjudicated upon and are related to the self-same cause of action on which the said criminal case is pending. The trial had already commenced therein.

In such view of the matter, the writ court, in my opinion, should not go into the facts which are already under consideration in a criminal trial pending before the Jurisdictional Criminal Court.

In view of the aforesaid discussions and reasons, this Court does not want to interfere with the claim of the writ petitioner by exercising its high prerogative jurisdiction.

However, the writ court being a court of equity can mould the relief to achieve the ends of justice and to see that justice is actually done between the parties, accordingly, the jurisdictional criminal court is requested to expedite the trial of the said Chetla P.S. Case No. 34 dated June 13, 2006 as mentioned above and come to its logical conclusion within a period of one year from the date of communication of this order.

It is however, made clear that this Court has not gone into the merit of the subject matter of the said Criminal Case in any manner.

Accordingly, this writ petition **(WPA 13085 of 2007)** stands dismissed.

There shall be, no order as to costs.

(Aniruddha Roy, J.)