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**15.06.2022**
Ct. No.23
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

**WPA 15496 of 2021**

Biswanath Chakraborty
Vs.
Bank of India & Ors.

Mr. Mainak Bose
Ms. Sweta Gandhi Murgai
... For the petitioner

Ms. Parna Roy Choudhury
... For the respondents no.1 & 2/Bank

Mr. Rishabh Karnani
... For the respondent no.3

The issue which has remained pending in the instant writ petition is the deduction sought to be made from the petitioner's pension account for recovery of an unpaid loan given by the Bank to the respondent no.3, who is the son of the petitioner, on the ground that the petitioner stood as a guarantor to the loan given to his son. The respondent Bank had already filed a recovery proceedings as against the respondent no.3 wherein the petitioner is also a party. The issue relating to unpaid loan, if any, will be decided in the recovery proceedings so initiated by the respondents no.1 and 2.

With regard to the pension account of the petitioner is concerned, the Bank as an employer cannot attach or deduct any money for recovery of the unpaid loan given to his son even if he is a guarantor once they have filed a recovery proceedings as against the respondent no.3 and the petitioner.

The Bank in its affidavit has stated that the pension account of the petitioner was never attached. Only once a deduction has been made for a sum of Rs.17,493.81 on 31st August, 2021 by exercising lien which, according to the Bank, is permissible under the prevalent policy.

In view of the specific bar under the Pensions Act, 1871 and Section 60 of the Code of Civil Procedure, 1908, the Bank is not entitled to make a deduction from the pension account for recovery of unpaid loan even if the pensioner stands as a guarantor when a separate recovery proceedings has been initiated. The Bank says that they have deducted no further amount except that on 31st August, 2021. The Bank also assures the Court that no further deduction from the pension account for the purpose of recovering the unpaid loan will be made.

In view of such assurance given by the Bank, the writ petition is disposed of by recording the Bank's undertaking given through its advocate.

Nothing further remains to be adjudicated in this writ petition.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

**(Arindam Mukherjee, J.)**