

S/L. 21.
August 22, 2022.
MNS.

WPA No. 18655 of 2022

Anshu Dinodiya @ Anshu Agarwal
(nee Saraf)
Vs.
The Union of India and others

Mr. Debasish Roy,
Mr. Firoze Edulji,
Mr. Loushik Kundu,
Ms. Mrinalini Majumder

... for the petitioner.

Mr. S. K. Tiwari

...for the Union of India.

Mr. Dipanjan Datta,
Mr. Atanu Basu,
Mr. Subhajit Chowdhury

...for the private respondent
nos. 4 to 7.

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

A Look Out Circular (LOC) issued against
the petitioner is impugned herein.

Learned counsel for the petitioner
contends that the petitioner's husband, like the
petitioner, also suffered from issuance of a Look
Out Circular (LOC) of similar nature, which was
quashed in a previous writ petition.

It is submitted that the petitioner wants to
join her husband and is otherwise competent and

qualified to have a decent living in the UK (United Kingdom).

That apart, it has been pleaded by the petitioner in paragraph – 22 of the writ petition that at least on thirty previous occasions the petitioner went abroad, that is, to UK and again returned to India. It is submitted that even after the initiation of the proceedings under Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), in 2014, the petitioner has left for UK several times and has returned each time. The respective dates are disclosed in paragraph- 22 of the writ petition.

It is further pleaded that the petitioner is a degree holder in M.Sc. Management from the London School of Economics (2002-2003) and that the petitioner is a Montessori school teacher at various schools for children aged 1 to 4 in Kolkata, India, and in the UK.

It is further contended by the petitioner that the petitioner permanently moved back to Kolkata and chose to support her husband by being a full-time mother and homemaker and has two minor daughters, who are studying in Modern High School, Kolkata. Since the petitioner's paternal

family is also fully settled in Kolkata since the last fifty years and both her parents are above seventy years and in constant need of attention, the apprehension of evading any award of any competent forum, if passed against the petitioner, who has been declared as a willful defaulter, is baseless, it is argued.

Learned counsel appearing for the respondent-bank submits that, at the behest of the bank, the LOC-in-question in respect of the petitioner was issued. It is submitted that since the husband of the petitioner is already in the UK and the children of the petitioner also have indefinite leave to remain in the UK, a reasonable apprehension is justified that if the petitioner leaves India for the UK, she may not return, thereby avoiding any award, which might ultimately be passed against the petitioner and/or the company of the petitioner, where she was a Director.

Upon hearing learned counsel for the parties, it transpires from the records that a similar LOC against the husband of the petitioner was quashed in a writ petition by this Court. Despite the children of the petitioner having indefinite leave to remain in the UK, the issuance

of LOC cannot be used as a handle to obtain / enforce a prospective award against a person on anticipation, before it is actually passed by any competent judicial forum.

In the present case, although the petitioner has been declared as a willful defaulter and there may be certain contentions which can be validly raised by the bank against the petitioner, such issue is entirely the subject matter of any award, if passed by a competent judicial forum. As of today, since no order has been passed against the petitioner from any such competent forum in respect of repayment of any quantum of money and keeping in view of the antecedents and attending circumstances of the petitioner, as indicated in the writ petition and narrated above, there is no scope of sustaining the LOC against the petitioner, which would not only have the effect of truncating the professional career of the petitioner but also be an unnecessary harassment and fetter on her personal liberty without there being any money award of a competent judicial forum against the petitioner.

In such view of the matter, the LOC issued against the petitioner cannot be sustained.

Accordingly, WPA No. 18655 of 2022 is disposed of by quashing the LOC issued against the petitioner, which is impugned in the present writ petition.

However, if the petitioner wishes to travel abroad, the petitioner will intimate the respondent-bank regarding the dates of travel and the place of her proposed residence when abroad, at least a fortnight prior to the date of her travel. Upon return to India as well, the petitioner shall intimate such fact to the respondent bank immediately.

This order shall not prevent the bank from approaching a competent judicial forum for obtaining any award and/or order against the petitioner.

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.)