OD-6

ORDER SHEET

WPO/2400/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

RAMESH CHANDRA BARDIA
VERSUS
IDBI BANK LIMITED AND ORS.

BEFORE:
The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA
Date : September 1, 2022.

Appearance:
Mr. Mainak Bose, Adv.
Mr. Pranav Sharma, Adv.
Mr. Rishav Karnani, Adv.

Mr. Paritosh Sinha, Adv.
Ms. Soni Ojha, Adv.
Ms. Sambrita B. Chatterjee, Adv.

The Court: The petitioner has challenged an order passed by the Wilful Defaulters' Committee (WDC) under Master Circular issued by the Reserve Bank of India on 1st July, 2015.

Upon hearing learned counsel appearing for the petitioner and the respondent Bank, it appears that the petitioner had been identified as a wilful defaulter by the same Wilful Defaulters' Committee earlier on 28th July, 2021 on the ground stated in the said order. The petitioner made a representation against this order before the Review Committee which is pending as on date. The petitioner was further visited with a second order, which is under challenge in the present writ petition, on 18th July, 2022 by the Wilful Defaulters' Committee, which is the first committee under Clause 3 of the Master Circular. The stand of the respondent Bank is that the writ petition is premature since the impugned order dated 18th July, 2022 is also pending consideration/ review at the second tier, namely, the Review Committee.

Clause 3 of the Master Circular deals with "mechanism for identification of wilful defaulters". Sub-clauses (a) and (b) of Clause 3 are concerned with the mechanism to be undertaken for identification of a wilful defaulter by the first committee which has been referred to in the impugned order as WDC, namely, the Wilful Defaulters' Committee. Clause 3(c) deals with the mechanism before the Review Committee as clarified by the expression "another committee" the constitution of which is entirely different from the constitution of the committee under Sub-clauses (a) and (b) of Clause 3.

Clause 3(c) significantly does not provide for any mechanism by which an order under review can be sent back by the Review Committee to the first committee for reconsideration. Hence, there is no provision under the Master Circular for the first committee to pass a second order against the same alleged defaulter and on the same set of facts. *State Bank of India vs. Jah Developers Pvt. Ltd. (2019) 6 SCC 787* clarified in the last paragraph of the decision that the borrower can make a representation against the order of the first committee within a period of 15 days to the Review Committee and that the Review Committee must pass a reasoned order on such representation which must be served on the borrower. The mechanism provided under Clause 3 of the Master Circular read with *Jah Developers* makes it clear that there is no provision by which the first committee can reconsider a matter afresh and pass a second order in the same matter being remanded to it by the Review Committee.

Hence, the impugned order dated 18th July, 2022 (or communicated on that date) cannot be sustained with reference to the relevant clauses of the Master Circular as well as the decision of the Supreme Court referred to above and is accordingly set aside.

WPO No.2400 of 2022 is disposed of in terms of the above.

(MOUSHUMI BHATTACHARYA, J.)

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