ORDER OD–9

APO/81/2022
IA NO. GA/1/2022
WITH
RVWO/8/2022
ARISING OUT OF
WPO/967/2021
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

RAHUL TANTIA & ANR.
VERSUS
STATE BANK OF INDIA & ORS.

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
DATE : 25th November, 2022

APPEARANCE:
Mr. Krishnaraj Thaker, Advocate
Ms. Rituparna Saha, Advocate
. . . for the appellants.
Mr. Ajay Gaggar, Advocate
Mr. Uttiyo Mallick, Advocate
Ms. Trini Joarder, Advocate
....for respondent no.1.
Mr. Abhishek Banerjee, Advocate
Ms. Parna Roy Chowdhury (Banerjee), Advocate
. . . for respondent no.2.

The Court:- By this intra-court appeal the appellants have challenged the order of the learned Single Judge dated 30th June, 2022 whereby RVWO 8 of 2022 was allowed and the earlier order was reviewed and WPO 967 of 2021 has been dismissed.

It has been pointed out that the appellants in WPO 967 of 2021 had challenged a communication dated 18th June, 2021 issued by the Indian Overseas Bank as also the addendum report dated 4th September, 2020 on the plea that the said audit report contradicts the earlier audit report already submitted before NCLT.

It has been pointed out that subsequently the concerned respondent bank has classified the account of the appellants as willful defaulter and questioning the same the appellants have again filed WPO 2847 of 2022. It is submitted by the learned Counsel for the appellants that in the fresh writ petition interim order has been passed on 14th October, 2022. It has also been pointed out that in the fresh proceedings holding the appellants to be the willful defaulter, the addendum report dated 4th September, 2020 has not been relied upon.

Hence, we find that in view of the fresh proceedings, nothing survives in the present appeal. The only apprehension which has been expressed by the learned counsel for the appellants is that in case they succeed in WPO 2487 of 2022 and the concerned bank takes up fresh proceedings again and relies upon the addendum report dated 4th September, 2020 in those proceedings then the appellants will suffer prejudice on account of the order under challenge.

We make it clear that if the appellants get any fresh cause of action to question the addendum report dated 4th September, 2020 then they will be at liberty to raise this issue in appropriate proceedings in accordance with law. We further make it clear that we have not commented upon the maintainability of those proceedings.

The appeal and the connected application are accordingly disposed of.

(PRAKASH SHRIVASTAVA, C.J.)

(RAJARSHI BHARADWAJ, J.)

pa/sm