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ORDER SHEET
WPO/2566/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ARENA MACHINERIES LTD. AND ANR
-VS-
UNION OF INDIA AND ORS.

BEFORE:
HON'BLE JUSTICE RAJASEKHAR MANTHA
DATE: 29TH SEPTEMBER 2022.

APPEARANCE:
Mr. D. Sengupta, Adv.; Mr. M. Das, Adv.; Mr. R. Adhikary, Adv., for petitioners.
Mr. S. Tiwari, Adv.; Ms. S. Poddar, Adv., for Union of India.
Mr. S. Nayak, Adv.; Mr. S.K. Ray, Adv.; Ms. S. Chakraborty, Adv., for respondent no.4.

THE COURT: The petitioners are aggrieved by a look out circular issued by the Ministry of Home Affairs, at the request of the UCO Bank. By reason thereof, the petitioner no.2 was restrained from travelling out of India through the Kolkata Airport.

The petitioners borrowed diverse sums of money from the UCO Bank. Upon their failure to repay the same, the Bank filed OA No.522 of 2019 (UCO Bank –vs- Arena Machineries Ltd.) before the Debts Recovery Tribunal-3, Kolkata under the RDDB Act, 1993. By judgment and order dated March 26, 2021, the said OA was decreed recording that the petitioners have paid Rs.21,75,53,643.29. A balance sum of Rs.4,11,23,833.11 remained due and was also decreed in favour of the applicant Bank. The bank was, however, denied the pendente lite interest.

The petitioners have since paid the said sum of Rs.4,11,23,833.11.

Against the refusal of the DRT-3 to allow the pendente lite interest, the Bank preferred an appeal before the Debts Recovery Appellate Tribunal, Kolkata, being Diary No.345/2021 (UCO Bank –vs- Arena Machineries Ltd.) which is since pending.

It appears from the records that the loans and advances obtained by the petitioners are secured to the tune of above Rs.10 crores in the form of mortgage of land and building, hypothecation of plant, machinery, stocks etc.

The petitioners claim that since they have paid the sums as decreed by the Tribunal, under the statute, continuation of the look out circular is bad in law.

Learned counsel for the Bank would argue that the appeal before the DRAT is an extension of the original proceeding and there are still outstanding amounts receivable from the petitioners in the event the Bank succeeds in the appeal.

This Court has carefully considered the rival contentions of the parties. The petitioners have indeed repaid the dues of the bank as decreed by the DRT-3 (supra). What remains is a claim towards pendent lite interest. Even if the Bank succeeds in the pending appeal, the securities already charged by the petitioners to the UCO Bank well and sufficiently cover all and every claim that the Bank may have against the petitioners.

In the above circumstances, this Court is of the view that the continuation of the look out circular against the petitioner no.2 against travel outside India is bad and not sustainable in the facts of the case. The petitioners are admittedly in the export trade.

The look out circular against the petitioner no.2, namely Navneet Manaksia, shall stand quashed and set aside on the following conditions:-

There shall be an injunction restraining the petitioners and all their Directors, their agents, servants and/or assigns from in any way dealing with, disposing of, alienating or otherwise encumbering each and every one of the assets charged to the UCO Bank towards the loans and advances made to the original principal debtor, i.e. the writ petitioner No.1. The writ petitioner no.2 shall, during the subsistence of the Bank's claims, keep the Regional Manager of the UCO Bank at Kolkata notified of all his travels from and back to India.

In default of compliance of the aforesaid terms, the look out circular against the petitioner no.2 shall automatically stand revived.

With the above directions, the writ petition stands disposed of.

(RAJASEKHAR MANTHA, J)

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