IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5695 OF 2022

Varaha Infra Ltd. ..... Petitioner

Vs.

Bank of Maharashtra ..... Respondent

Dr. Birendra Saraf a/w. Pralhad Paranjpe, Abhishek Birthray, Kunal Kanugo, Nishant Chothani, Paras Oza I/b. Kunal Kanuga for the Petitioner
Mrs. M. P. Thakur, AGP for the State
Mr. Satish Upadhyay for the Respondents

CORAM: S.V. GANGAPURWALA & S. M. MODAK, JJ.

DATED : JULY 18, 2022

P.C.

1 Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for for disposal.

2 The Petitioner is declared as a willful defaulter. The case of the Petitioner is that the Petitioner was served with a show cause notice as to why the Petitioner should not be declared as a willful defaulter. The Petitioner filed reply. The First Committee passed the order. The grievance of the Petitioner is that the First committee did not serve a copy of the order upon it. The Petitioner approached the

Review Committee. The Review Committee dismissed the representation of the Petitioner. Aggrieved thereby, the present Writ Petition.

3 Amongst other submissions, one of the submissions of the learned Senior Advocate for the Petitioner is that the Petitioner was never served with a copy of the order of the First Committee so as to enable the Petitioner to know the grounds on which the order was passed and effectively represent before the Review committee. The learned Senior Counsel submits that it is necessary for the First Committee to serve a copy of the order upon the Petitioner. Reliance is placed by the learned Senior Advocate on the judgment delivered by the Apex Court in the case of ***State Bank Of India Vs. Jah Developers Pvt. Ltd. & Ors. (2019) 6 SCC 787.***

4 The learned Advocate for the Respondent Bank submits that in fact, the reply to the show cause notice is not filed by the Petitioner. It is an undated one. There was no occasion for the First Committee to serve a copy of the order on the Petitioner. Under the show cause notice, the Petitioner was directed to file reply within 10 days and if the reply is not filed the decision would be taken. According to the learned Advocate, the Master Circular does not contemplate service of a copy of the order upon the Petitioner. The show cause notice was

issued to the Petitioner prior the judgment delivered by the Apex Court in the case of State Bank of India (supra).

5 The learned Senior Advocate for the Petitioner submits that entire dues of the Bank are repaid and No-Dues certificate is issued by the Bank.

6 We have considered the submissions.

7 The Master Circular dated 1st July 2015 has been interpreted by the Apex Court in the case of State Bank of India (Supra). The said Circular dated 1st July 2015 has been read down by the Apex Court. The Apex Court observed as under:

> *"24. .... This being so, and given the fact that Para 3 of the Master Circular dated 1st July 2013 permitted the borrower to make a representation within 15 days of the preliminary decision of the First Committee, we are of the view that first and foremost, the Committee comprising of the Executive Director and two other senior officials, being the First Committee, after following Para 3(b) of the Revised Circular dated 1st July 2015, must give its order to the borrower as soon as it is made. The borrower can then represent against such order within a period of 15 days to the Review Committee. Such written representation can be a full representation on fact and law (if any). The Review Committee must then pass a reasoned order on such representation which must then be served on the borrower. Given the fact that the earlier Master Circular dated 1st July 2013 itself considered such steps to be reasonable, we incorporate all these steps into the Revised Circular dated 1st July 2015. ...."*

8 It is not disputed that the First committee never served a copy of the order passed by it upon the Petitioner. The order passed by the Review Committee cannot be sustained in view of the judgment of the Supreme Court of India in the case of State Bank of India (Supra).

9 In the result, we pass the following order:

a. The impugned order passed by the Review Committee is quashed and set aside.

b. The Respondents and/or the Committee who passed the order shall serve a copy of the order upon the Petitioner.

c. The Petitioner, within 15 days of receipt of a copy of the order, shall file a representation before the Review Committee.

d. The Review Committee shall decide the same afresh.

e. The Rule is made absolute in the aforesaid terms.

f. The Writ Petition stands disposed of. No costs.

(S. M. MODAK,J.) **(S.V. GANGAPURWALA, J.)**