

D/L. 4.
June 14, 2023.
MNS.

WPA No. 12441 of 2023

Sri Siddhartha Biswas
Vs.
Indian Bank and others

Mr. Siddhartha Goswami,
Mr. Vaskar Saha

... for the petitioner.

Mr. Shiv Mangal Singh,
Ms. Jahan Ara Kulsum,
Ms. Marian Sanfui

...for the Indian Bank.

Learned counsel for the petitioner argues that the petitioner had an overdraft account with the Allahabad Bank, which is now merged with the Indian Bank-respondent no.1. Subsequently, however, when an amount was credited to the petitioner's bank account with the Indian Bank to the tune of Rs. 15,00,000/-, the same was debited by the bank without intimating the petitioner.

That apart, the respondent no. 1-bank further credited an amount of Rs.2,30,000/- to the account of the petitioner without the petitioner seeking such amount and/or asking for any further overdraft.

The petitioner is aggrieved by such action of the bank to the effect that the petitioner, without prior notice to him, deducted the amount of Rs.15,00,000/- and also credited Rs.2,30,000/- to the petitioner's account in an unwarranted and unsolicited manner only to deduct interests from the same, thereby adversely affecting the interest of the petitioner.

Learned counsel appearing for the respondent no. 1-bank submits that the petitioner has suppressed several relevant facts in the writ petition. The petitioner has been previously benefited thrice with different financial loans/benefits by the bank.

Contrary to the submission of the petitioner, the respondent no. 1-bank submits that the petitioner came to the aid of the petitioner during the pandemic times by extending facilities specifically tailor-made for the pandemic distress.

That apart, the bank has thrice upgraded the NPA A/c of the petitioner, on different considerations. Thereafter, since the petitioner's LIC deposit to the tune of Rs.15,00,000/- was adjusted with the previous debts of the bank, the same was deducted by the bank in due process of law.

Thereafter, only on the verbal request of the petitioner, the amount of Rs.2,30,000/- was credited to the petitioner's account by the respondent no. 1-bank.

In view of the nature of the allegations made in the present case, further direction of affidavits will unnecessarily stall the proceeding. It is relevant to mention here that learned counsel for the respondent no. 1-bank, apart from photocopies of other documents, has also handed over a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002), which has been issued on May 24, 2023 by the respondent no. 1-bank to the petitioner. The existence of such notice is not denied by the petitioner as such.

It is apparent that the petitioner has taken out the present writ petition on frivolous grounds merely to postpone the consequences of the notice under Section 13(2) of the SARFAESI Act, 2002 under the subsequent provisions in the said Act.

Such an attempt of the petitioner cannot be given a premium to, more so, since the petitioner has an equally efficacious alternative

remedy in approaching before the appropriate tribunal with the grievances that the petitioner may have against the respondent no. 1-bank with regard to the petitioner's account with the respondent no. 1-bank.

As such, the writ petition is not maintainable on any count whatsoever. In any event, the disputes sought to be raised do not justify interference under Article 226 of the Constitution of India.

Although the petitioner's attempts are tainted with *mala fides* inasmuch as the petitioner seeks to stall the proceeding taken out by the respondent no. 1-bank under the SARFAESI Act, 2002, in view of the valiant efforts of learned counsel for the petitioner to make out a barely arguable cause and in view of his excellent arguments, no costs are being imposed on the petitioner in the present case.

However, the petitioner is warned that in the event the petitioner further attempts to abuse the process of court by filing frivolous litigations to stall the due process of law, exemplary costs may be imposed on the petitioner.

Accordingly, WPA No. 12441 of 2023 is dismissed on contest without, however, any 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.)