

A-08
Ct No.09
04.12.2023
TN

WPA No. 13715 of 2023

M/s. Banerjee and Brothers
Vs.
Punjab National Bank and others

Mr. Kushal Chatterjee,
Mr. Debrup Choudhury,
Mr. Sudarshan Haldar

.... for the petitioner

Ms. Parna Roy Choudhury

.... for the respondent-Bank

Mr. Iftekar Munshi

.... for the respondent no.3

- 1.** The petitioner contends that the petitioner had a current account with the respondent no.1-Bank, that is, the Punjab National Bank which has subsequently been closed by the Bank on the ground that the petitioner failed to meet the requirements of the overdraft facilities granted against such account.
- 2.** It is contended that the said current account is the account where the petitioner receives professional fees for his work as a contractor of several government concerns and the petitioner is suffering immeasurably due to closure of such account without prior demand of any amount from the petitioner.

- 3.** Learned counsel for the Bank places reliance on the documents annexed to the affidavit-in-opposition of the Bank and submits that the account-in-question was not a current account but was an overdraft account. By placing reliance on the format of the overdraft agreement annexed at page-22 of the affidavit-in-opposition, it is submitted that the petitioner himself authorized the Bank to appropriate the interest payable on the said amount from time to time towards adjustment of dues. The authority will stand, as per the said document, notwithstanding any other instruction given by the petitioner at the time of opening the said account in respect of the payment/crediting of interest.
- 4.** It is submitted that the petitioner never had any current account with the Bank but the only account of the petitioner in respect of the overdraft was the overdraft account itself, which has been erroneously mentioned as a current account in the writ petition. That apart, the petitioner also has a cash credit facility and a term loan account with the Bank which are operating as usual.
- 5.** It is submitted that the overdraft facility was long overdue for which the respondent-Bank has

adjusted the due amounts from the fixed deposits which were given as security by the petitioner. The amount which was left over in excess after such adjustment has been duly credited to the other accounts of the petitioner, that is, the cash credit facility and/or the term loan account.

- 6.** It transpires from the document evidencing the overdraft facility that no prior demand notice was to be given to the petitioner by the Bank. Hence, the adjustment of the dues of the petitioner on the overdraft facility from the fixed deposits cannot be called into question, nor has the same been done by the petitioner in specific terms.
- 7.** The dispute which arises is whether the petitioner had an independent current account over and above the overdraft facility, which has been closed. The petitioner has also sought to rely upon the petitioner's letter to the Bank for opening the overdraft facility dated December 14, 2021, annexed at page-20 of the affidavit-in-opposition, where the petitioner has indicated that on adjustment of dues from the proceeds of security pledge the balance amount be credited to the petitioner's savings/current account, the number of which is identical with the account claimed by the Bank to be the overdraft account.

- 8.** Learned counsel for the petitioner also places reliance on the relevant annexures of the affidavit-in-opposition to indicate that the petitioner's overdraft facility on the present occasion, as admitted by the Bank, was only a renewal of such facility. A previous overdraft facility of Rs.10 lakh was subsisting even as per the communication by the Bank which shows that the current account has been operating from prior to the opening of the present overdraft facility.
- 9.** It is seen from the annexure at page-25 of the affidavit-in-opposition of the Bank that the Bank purportedly informed about the irregularity in the overdraft account. The account under reference carries the number 1401009300003322 which has been referred to by the petitioner consistently as the current account.
- 10.** Learned counsel for the petitioner also hands over a cheque book, which apparently indicates that the same relates to a current account of the same number as indicated above.
- 11.** Upon perusal of the documents and the arguments of the parties, it transpires that although the overdraft facility has been granted apparently with a cheque book indicating the

same as a current account, the classification as a current account itself does not indicate that there was a pre-existing independent current account apart from the account which has been used for the overdraft.

- 12.** In all the relevant communications from the end of the Bank, the account has been referred to as the overdraft account. The petitioner, in his overdraft facility opening letter dated December 14, 2021, has merely stated that on adjustment of the dues of the Bank from the proceeds of security pledged the balance amount is to be credited to his account of the number as indicated above. The printed format of such application carried the options savings/current which does not *ipso facto* make the same account to be a current account.
- 13.** In any event, the account-in-question has been referred to persistently as the overdraft account of the petitioner in the correspondence between the Bank and the petitioner.
- 14.** Thus, there is no special reason to hold, contrary to the Bank's version, that there was independent existence of a current account apart from the overdraft account so cited.

- 15.** Hence, since the said account was overdue, the Bank functioned within its statutory and jurisdictional limits by adjusting the amount due and parking the excess thereafter in the other accounts of the petitioner.
- 16.** In any event, upon query of court, learned counsel for the Bank has categorically submitted that the Bank does not have any objection if the petitioner seeks to have further overdraft facility and/or open a fresh current account, subject to the petitioner fulfilling the other conditions required to do so.
- 17.** In fact, the petitioner cannot be materially aggrieved if the petitioner is permitted to open a new current account where the petitioner's incomes can come in. There is no magic in the particular number of the account which has now been closed by the Bank. In fact, if the Bank is directed to reopen the same account, a confusion may be created, since the same number of the account was being alternatively referred to as the overdraft account by the Bank and as the purported current account by the petitioner.
- 18.** Hence, there is no scope of interference with the action of the Bank in closing the account-in-

question, that is, account number 1401009300003322.

- 19.** In such view of the matter, WPA No. 13715 of 2023 is disposed of with liberty to the petitioner to approach the Bank for opening a fresh current account and/or drawing a fresh overdraft facility if the petitioner is otherwise so entitled in law and fulfils the eligibility therefor. If such approach is made, the Bank shall process the said request(s) immediately and upon satisfaction of all eligibility criteria by the petitioner, permit the petitioner to open such account/have such facility, without being influenced in any manner by the previous closure of the account-in-question.
- 20.** There will be no order as to costs.
- 21.** 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.)