24th July, 2023
(AK)
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W.P.A 16429 of 2023

Shri Chittaranjan Das
Vs.
The State Bank of India and others

Mr. Srinjay Sengupta
Mr. Saurav Roy
Mr. Narattam Acharyya
Mr. Ankush Ghosh
...for the petitioner.

Mr. Subhendu Bandyopadhyay
Mr. Arindam Mitra
...for the respondent no.1.

Mr. Abhishek Banerjee
...for the respondent nos.2 to 4.

Learned counsel for the petitioner submits that the petitioner has an account with the State Bank of India, the respondent no.1, and owns two credit cards in connection with such account.

The petitioner submits that the petitioner sought to surrender those credit cards, the relevant documents in respect of which have been annexed to the writ petition.

However, the petitioner was charged with payment of substantial amounts on a purported third credit card, which was never taken by the petitioner from the respondent no.1-Bank at any point of time.

When the petitioner raised a dispute regarding payability of such amount, which was apparently withdrawn by fraud in the name of the petitioner, the SBI Credit Card Centre and the SBI Cards and Payment Services, who are respondent nos. 2 to 4 herein, referred the matter to arbitration at Delhi.

It is submitted that the petitioner was in no way responsible for such fraudulent withdrawal of the amount and disputes the same.

When the petitioner disowned the liability to pay such amount, the petitioner was subjected to arbitration at Delhi.

It is submitted that the alternative remedy of arbitration before a Delhi forum is not equally efficacious as the writ petition, in view of the circumstances and the residence of the petitioner within the jurisdiction of this court.

Learned counsel for the respondent no.1 submits that it was the respondent nos. 2 to 4 who are the prime answering respondents with regard to credit card issuance.

An adjournment is sought on behalf of learned counsel for the respondent nos. 2 to 4, who also raises a question of maintainability of the writ petition.

On a primary perusal of the materials-on-record and hearing learned counsel for the parties, it is clear that the relief of the petitioner lies before the arbitrator, in the pending arbitration proceeding at Delhi.

Since the petitioner disowns having any other third credit card with the respondent no.1-Bank or with the respondent nos.2 to 4, it is for the petitioner to raise such issues before the arbitrator where the dispute is pending at present.

In the event the petitioner is of the opinion that the petitioner is not armed with sufficient appropriate documents in that regard, having not been furnished with the same at the relevant point of time, it will also be open to the petitioner to seek such reliefs, akin to interrogatories/discovery, before the arbitrator where the matter is pending.

However, the respondent nos. 2 to 4 are justified in arguing that the writ petition is not maintainable on the relief as sought herein.

Accordingly, WPA 16429 of 2023 is disposed of as not maintainable, with liberty to the petitioner to raise all grievances taken herein before the arbitral tribunal, where the dispute between the petitioner and the respondent nos. 2 to 4 is pending at present.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)