

7th December,
2023
(AK)
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W.P.A 25993 of 2023

Chandrakant Khemka
Vs.
UCO Bank and another

Mr. Jishnu Saha
Mr. Aditya Kanodia
Mr. Chayan Gupta

...for the petitioner.

Mr. Shashwat Nayak
Mr. Santosh Kr. Ray
Ms. Antalina Guha

...for the respondent no.1.

1. Learned senior counsel submits that the writ petition has been preferred against the alleged non-service of all documents on which the respondents seek to rely on for the purpose of declaration of the petitioner's account as fraud under the concerned Master Direction of the Reserve Bank of India.

2. Learned senior counsel places the draft forensic investigation report annexed at page-265 of the writ petition and points out that it is *per se* evident that the said report is a draft report and could not have been the basis of a valid show-cause.

3. That apart, by placing reliance on the relevant portion of the said report, it is pointed out that there is no

signature on the said report even of the purported authors of the same.

4. Thus, it is contended that the said report cannot be a basis of any valid show-cause notice at all.

5. Learned counsel for the Bank, on instruction, submits that the document annexed to the writ petition at page-265 onwards is the only document on which the Bank seeks to rely on for the fraud declaration proceeding.

6. It is also apparent from the show-cause notice that the Bank seeks to rely on a Forensic Audit Report for the purpose of hearing the petitioner.

7. Since it is the specific stand of the Bank that the document annexed to the present writ petition is the only document on which they will rely, a copy of which has been served on the petitioner, it cannot be said that the respondents are guilty of suppression of any document to the petitioner, on which the respondents want to rely for the purpose of the hearing on fraud declaration.

8. Insofar as the discrepancies pointed out by the petitioner to the report, such as the report being only a draft report and there being no signature thereon, it will be open to the petitioner to take such points in the hearing before the appropriate authority.

9. However, in the event the merits of the show-cause notice vis-à-vis the said document are discussed here, it

would have an effect travelling beyond the scope of the writ petition and will tantamount to pre-judging the merits of the fraud hearing.

7. Accordingly, WPA 25993 of 2023 is disposed of with the observation that the respondents shall be entitled to rely only on the document annexed at page-265 onward of the writ petition as the document which has been referred to in the show-cause notice for the purpose of the hearing on declaration of the petitioner's account as fraud.

8. Since the writ petition indicates that the said copy has been handed over to the petitioner, the petitioner shall be entitled to take all points including the points taken before this court in its objections before the appropriate authority.

9. Since the writ petition was pending so long, the time for filing of reply to the show cause notice by the petitioner is extended till December 22, 2023.

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.)