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IA NO. GA/1/2023
IN WPO/149/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

K K BANIJYA PVT LTD
Vs
UNION OF INDIA AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 12th July, 2023.

Appearance:

Md. Javed Sultan, Adv.

Mr. Hare Krishna Halder, Adv.

Mr. Koushik Bhattacharyya, Adv.

. . .for the petitioner.

Mr. Sukanta Ghosh, Adv.

. . .for the respondent nos.1 &2.

Ms. Suchismita Ghosh, Adv.

. . .for the respondent no.3.

Mr. Om Narayan Rai, Adv.

Mr. Saikat Ray Choudhury, Adv.

Mr. Piyal Choudhury, Adv.

. . .for the respondent no.4.

Mr. S.E. Huda, Adv.

Ms. Niharika Singh, Adv.

Mr. Ashok Kr. Singh, Adv.

Mr. SK. Aptabuddin, Adv.

Mr. Mimadri Roy, Adv.

. . .for the respondent no.5.

The Court: Learned counsel for the petitioner, while pressing GA No.1 of 2023, contends that, in violation of the interim order passed by co-ordinate

Bench in this matter on April 20, 2021, the respondents have been taking coercive steps and legal action on the basis of the post-dated cheque bearing No.000100 handed over to the respondent no.5 as security deposit.

It is submitted that several such litigations are at present pending at the behest of the said respondent, thus necessitating the filing of the present application.

At the outset, learned counsel appearing for the RBI submits that the RBI is not a necessary party to the present writ petition, since no reliefs have been sought against the said authority at all.

Learned counsel for the respondent no.4 submits that the said respondent has already filed its affidavit in opposition, although learned counsel for the petitioner submits that no copy of the same has been served upon the petitioner. Be that as it may, learned counsel appearing for the respondent no.5, against whom the preliminary reliefs have been sought in the writ petition and the connected application, contends that respondent no.5 is not a public authority or a State within the contemplation of Article 12 of the Constitution of India. That apart, it is argued that the reliefs as sought in the writ petition fall within the domain of contract and as such, cannot be granted by a writ court.

A cursory perusal of the reliefs claimed in the writ petition indicates that no fundamental or legal right of the petitioner has been alleged to have been violated as such, sufficient to invoke the jurisdiction of judicial review under Article 226 of the Constitution of India. In the preliminary reliefs sought, the petitioner has claimed that the respondent no.5 be recommended to strictly

comply with the Circular issued by the Reserve Bank of India, dated January 1, 2019 and another Circular dated February 11, 2020 along with DOR No. BP.BC/4/21.04.048/2020-21 dated August 6, 2020. The petitioner has also sought a writ of mandamus against respondent no.5 to grant the petitioner an one-time debt realignment against the loan accounts in terms of the directions issued by the RBI.

Such being the preliminary reliefs, which undoubtedly fall within the discretion of the respondent no.5, do not call for invocation of the writ jurisdiction. In any event, as rightly pointed out by learned counsel for the respondent no.5, the said respondent being a private authority, the writ petition is also not maintainable on such score.

The RBI, as it appears, has been impleaded without any relief being sought against the said authority. In fact, in the event the RBI is not impleaded, there would be no justification to invoke the jurisdiction of the writ court at all.

As it appears from the averments made in the application bearing GA No.1 of 2023, the restructuring as sought by the petitioner has already been done in the meantime, although not to the satisfaction of the petitioner. However, in the event the petitioner is dissatisfied with such restructuring, it is open to the petitioner to approach the appropriate forum with such grievance, since the same furnishes a fresh cause of action, arising subsequent to the filing of the present writ petition.

In such view of that matter, the reliefs as sought by the petitioner in the present writ petition cannot be granted.

Accordingly, WPO 149 of 2021 is dismissed without any order as to costs. Consequentially, GA 1 of 2023 is also dismissed.

It is made clear that the merits of the allegations made by the parties against each other have not been gone into by this Court and it will be open to the parties, if any of the parties approach an appropriate forum, to urge all questions independently without being prejudiced in any manner by any of the observations made herein.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

SP/