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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1481/2023

FCIB ENFORCEMENT AND DETECTIVE AGENCY PVT. LTD. AND ANR.
VS.
RESERVE BANK OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 10th August, 2023

Appearance:
Mr. Shaunak Ghosh, Adv.
Mr. Rajib Mullick, Adv.
Mr. S. Maity, Adv.
... for the petitioner.

Ms. Parna Roy Choudhury, Adv.
Mr. Avishek Choudhury, Adv.
... for the respondent.

The Court:- Affidavit-of-service filed in Court today be kept in the record.

Learned Counsel for the petitioner contends that the petitioner no.1 is an enforcement and detective agency, which rendered services to the United Bank of India, which has since been merged with the respondent no.2 Punjab National Bank (PNB). However, the PNB is not honouring bills raised by the petitioner no.1 company for services rendered by it.

Learned Counsel for the petitioner submits that the apparent pretext of such refusal by the bank is that there are allegations made by one Santanu Sarkar, who was an erstwhile director of the petitioner no.1-company, with regard to his signatures being falsified and used in his resignation letter by the petitioner no.2 herein. It is submitted that, however, the petitioner no.2 has obtained bail and the criminal proceeding does not anywhere allege that the bills in question were also issued fraudulently or contained forged signatures.

Learned Counsel for the petitioner submits that the bills-in-question were raised by petitioner no. 2 prior to the dispute regarding the resignation of Santanu Sarkar.

Learned Counsel for the petitioner places reliance on two orders passed by the National Company Law Tribunal (NCLT), in respect of two applications filed respectively by the petitioner no.2 as well as the said Santanu Sarkar, alleging mismanagement and oppression in the company. Learned Counsel places reliance on the first order passed therein, which is annexed at page 21 of the writ petition, where the NCLT had directed the parties to maintain the bank account of the petitioner no. 1-company jointly by signing the cheque jointly till the next date of hearing.

However, by a subsequent order passed by the Tribunal on March 21, 2022 annexed at page 76 of the writ petition, the said order was modified and the Tribunal observed that since Mr. Santanu Sarkar is no longer director of the respondent no.1 company, he cannot be expected to sign the cheques of the respondent no.1 company jointly. As such, the NCLT directed that for the purpose of maintaining the bank account for the company jointly and signing the cheques jointly, the name of Mr. Santanu Sarkar as director should be substituted with that of the current director being Mr. Debandra Raisali.

Hence, it is submitted, at present there is no order from any forum, Tribunal or Court, restraining the petitioner no.1 company accounts being operated jointly by the petitioner no.1 and the other current director Mr. Raisali.

Learned Counsel for the bank submits that the bank could not disburse the amount in favour of the petitioner since the bills were raised on behalf of the company by the petitioner no.2. The bills were of the period prior to the dispute between the petitioner no.2 and the said Santanu Sarkar. It is argued that, since the criminal proceedings are pending against the petitioner no.2, the bank thought it prudent not to disburse the amount since there is some doubt on the veracity of the bills themselves as well.

It is argued that the respondent no.2 bank does not have any objection on principle to disburse the amounts which are actually due to the petitioner no.1 company, but for the fact that several litigations are pending in respect of the interests of the petitioner no.2 as well as the said Santanu Sarkar vis-a-vis the company.

Upon perusal of the materials annexed to the writ petition, at the first blush it came to the mind of the Court as to whether the said Santanu Sarkar is a necessary party to the present petition. However, whatever order is passed in the present writ petition, shall pertain to the dispute primarily between the petitioner no.1 company, which is a separate juristic entity, and the respondent no.2 bank, and the interests of either Santanu Sarkar or the petitioner no.2, in so far as it relates to the pending criminal case or the NCLT proceedings, shall not be prejudiced in any manner by the observations made herein.

The bank does not challenge the fact that certain bills were raised by the petitioner no.1 company in respect of work done by it for the bank. However, the apprehension of the bank is entirely in the light of the pending proceedings between the petitioner no.2 and Santanu Sarkar in the criminal forums as well as the NCLT.

However, such apprehension of the bank is misplaced, since the petitioner no.1 is an independent juristic entity entitled to its dues from the respondent no.2 bank for the work actually done by the petitioner no.1 for the bank, independent and irrespective of the internal disputes between its directors/erstwhile directors.

A perusal of the documents annexed to the writ petition indicates that the allegations made by the said Santanu Sarkar against petitioner no.2 Baishali primarily pertain to the allegations that the resignation letter of Santanu Sarkar was forged. There is no specific allegation regarding the veracity of the bills raised by the petitioner no.1 company on the respondent bank.

Moreover, the bills in question were raised on behalf of the petitioner no.1 bank prior to the dispute between the petitioner no.2 and the said Santanu Sarkar having arisen. As such, the allegations and counter allegations made in the criminal proceedings do not have any bearing on the said bills or the veracity thereof.

In so far as the NCLT proceedings are concerned, it transpires from the last order of the Tribunal, as annexed to the writ petition, that the NCLT itself has directed the accounts of the petitioner no.1 company to be operated jointly by the petitioner no.2 and the present director Mr. Debendra Raisali.

Hence, there is no fetter imposed upon the operation of the bank accounts.

That apart, nothing in the pending proceedings before the NCLT or the criminal proceedings has any bearing whatsoever on the dues from the respondent no.2 bank to the petitioner no.1 company for the services rendered by the later.

As such, WPO/1481/2023 is disposed of by directing the petitioner to furnish bills afresh indicating the dues payable by the respondent no.2 bank for services rendered by the petitioner no.1 company in favour of the respondent no.2 bank or its predecessor bank, that is, the UBI. Such bills shall be submitted by the petitioners within a week from date to the respondent no.2. Upon such bills being raised, the respondent no.2 bank shall immediately process the same, if necessary, giving an opportunity of hearing to the petitioner in the event any doubt arises in the mind of the concerned officials of the respondent no.2 regarding the veracity of the amounts claimed by the petitioner. Thereafter, the respondent no.2 bank shall disburse the admitted dues to the petitioner no.1 company.

The entire exercise, as indicated above, shall be concluded by the respondent within four weeks from the date of the bills being submitted by the petitioners to the respondent no.2 bank.

It is made clear that in the event the petitioners have any further grievance after such disbursal by the bank, the petitioners will be at liberty to approach the appropriate forum for ventilation of the same.

Nothing in this order shall operate to prejudice the claims of the petitioners and/or the rebuttal thereof, if any, by the respondent no.2 bank on merits.

No order as to costs.

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.)

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