2023:PHHC:123945-DB

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(Sr. No. 117)

LPA No.1340 of 2023
Date of decision : 20.09.2023

Manpreet Singh

.....Appellant

Versus

Reserve Bank of India and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present : Mr. Aayush Gupta, Advocate for the appellant.

* * *

DEEPAK SIBAL, J. (*Oral*)

(1) The present is an intra Court appeal filed by the appellant against the dismissal of a writ petition filed by him through which he had sought quashing of order dated 06.07.2023 passed by respondent No.1 - Reserve Bank of India (for short – RBI) rejecting the appellant's representation through which he had alleged that respondent No.2 - Union Bank of India, SSD Moga Branch, Gandhi Road, Moga (for short – the Bank) had illegally permitted operation of the bank accounts of M/s National Finance Corporation (Regd.), National Financers (Regd.) and National Motor General Financers (Regd.), Moga.

(2) The appellant claims to be a partner of M/s National Financers (Regd.), M/s National Finance Corporation (Regd.) and M/s National Motor General Financers (Regd.). In September, 2022 he discovered that from the bank accounts of the aforesaid firms funds were being siphoned off by the other partners. They were doing so by unauthorizedly operating bank accounts of the said partnership firms being maintained in the Bank. The appellant filed an application with the Bank under the Right to Information Act, 2005 seeking documents filed with the Bank at the time of opening of the bank accounts of the 03 partnership firms. In response to the appellant's application the stand of the Bank was that as per the records maintained by the Bank, with regard to the aforesaid 03 partnership firms, the appellant was not an authorized signatory. There was also no proof with the Bank with regard to the appellant being a partner in any of the aforesaid 03 firms. Therefore, the Bank refused to share with the appellant the information sought by him. The Bank further wrote to the appellant that in case the appellant would provide an authorization letter from any of the account holders only then would they be able to furnish the information sought by him. The appellant did not challenge the aforesaid rejection of his application but chose to produce before the Bank copies of partnership deeds of the aforesaid 03 partnership firms through which he claimed to be a partner in all the 03 firms. Having received no response to the additional information supplied by the appellant he then filed a complaint against the Bank to the RBI. On the appellant's complaint, the RBI sought the Bank's comments and on receipt of the same the RBI rejected the appellant's complaint primarily on the ground that as per information supplied by the Bank to the RBI, the appellant was not an authorized signatory to any of the bank accounts of the 03 partnership firms. Such order of the RBI was challenged by the appellant through a writ petition filed before the learned Single Court which petition of his was dismissed through the judgment under challenge.

(3) Learned counsel for the appellant has been heard and with his able assistance the record of the case has also been perused.

(4) It is not disputed that neither the appellant is an authorized signatory nor has produced any written authorization from any of the aforesaid 03 firms to operate the firms' bank accounts which are maintained with the respondent-Bank. Thus, no fault can be found in the action of the Bank for not supplying information to him pertaining to such accounts.

(5) The appellant claims himself to be a partner of the aforesaid 03 firms. He has placed on record copies of the partnership deeds of the 03 firms to show that he is a partner in each of these firms. These deeds are of between the years 1996-1998. Whether he continued to be a partner at the time when the bank accounts in question were opened remains inconclusive. The appellant further alleges that his other partners are unauthorizedly operating the bank accounts of the said firms. The reason as to why, as per the records of the Bank, the appellant is not one of the authorized signatories to operate the bank accounts remains a mystery. Apparently, there is a dispute between the appellant and the authorized signatories to operate the bank accounts of the 03 firms. Such dispute is of a private nature. The genesis of the dispute is also unknown. To iron out these issues leading of evidence would be necessary. Therefore, the appellant's remedy would not be to invoke this Court's writ jurisdiction. It would lie before the Civil Court.

(6) The appellant relies on Section 19 (2) (b) of the Partnership Act, 1932 (for short – the 1932 Act). The same reads as under :-

> *"19.* ***IMPLIED AUTHORITY OF PARTNER AS AGENT OF THE FIRM.***
>
> *(1) xx xx xx*

(2) In the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to –

(a) xx xx xx

(b) open a banking account on behalf of the firm in his own name,

(c) xx xx xx

(d) xx xx xx

(e) xx xx xx

(f) xx xx xx."

(7) As per the afore quoted provision, in the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to open a bank account on behalf of the firm "in his own name".

(8) It is the admitted position that in the case in hand no bank account on behalf of any of the partnership firms of which the appellant claims to be a partner has been opened by any of the other partners in their own name. Therefore, the appellant's reliance on the afore quoted provision is misconceived.

(9) In the light of the afore discussion no error, factual or legal, is found in the judgment under appeal warranting any interference by us especially when after dismissing the appellant's petition the learned Single Court has granted liberty to the appellant to take recourse to any alternative remedy that may be available to him, in law.

(10) Dismissed.

(DEEPAK SIBAL)
JUDGE

20.09.2023
sunil yadav

(SUKHVINDER KAUR)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No