Neutral Citation Number is 2023:DHC:4534

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30th MAY, 2023

IN THE MATTER OF:

\+ **LPA 477/2023 & CAV 296/2023**

UNION BANK OF INDIA ..... Appellant

Through: Ms. Ekta Choudhary, Ms. Anisha and Mr. Divyank Dutt Dwivedi, Advocates.

versus

PREET KAUR & ANR ..... Respondents

Through: Ms. Rebecca John, Sr. Advocate with Mr. Nikhil Kohli, Mr. Kushank Garg, Ms. Akshaya Ganpath and Mr. Pravir Singh, Advocates for R-1 and R-2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. Aggrieved by the Order dated 23.05.2023, passed by the learned Single Judge in CM APPL. No.26258/2023 in W.P.(C) 11139/2022, the Appellant herein, who was Respondent in the Writ Petition, has filed the present appeal.

2. Learned Single Judge *vide* the Order impugned herein has disposed of the application filed by the Respondents herein seeking permission to travel abroad to London, United Kingdom, from 24.05.2023 to 22.06.2023 for participating in a business meeting.

3. Facts of the case reveals that the Appellant herein gave a letter of

credit to M/s I World Business Solution Pvt. Ltd (*hereinafter referred to as 'the Principal Borrower'*) for opening cash credit of Rs.50 crores and bank guarantee of Rs.10 crores. The facilities were renewed in the year 2019.

4. Material on record discloses that at the request of the Principal Borrower the credit account was converted into Funded Interest Term Loan (*hereinafter referred to as 'the FITL*). It is stated that the Respondents herein executed a deed of guarantee dated 22.10.2020 and were jointly and severely liable towards the dues of Principal Borrower. It is stated that in order to secure the liability, Equitable Mortgage was created by the Bank in order to secure its interest. It is stated that since the Principal Borrower failed to maintain the balance and did not gave installments as agreed upon, the account of the Principal Borrower was classified as Non Performing Asset (NPA) and proceedings were initiated against it under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It is stated that the Appellant Bank as per RBI Master Circular, RBI/2015-16/100 updated on 01/07/2015, issued a Show Cause Notice, being SCN: 0384, dated 07.03.2022 declaring the Respondents herein as Willful Defaulter.

5. It is stated that on coming to know that the Respondents herein are planning to go abroad, lookout circulars were issued against the Respondents herein and the same was challenged by the Respondents by filing W.P.(C) 11139/2022 seeking the following reliefs:

> *"a) Issue a writ of certiorari or any other appropriate writ or direction quashing and setting aside the impugned Look Out Circular dated 03.01.2022 issued against the Petitioners;*

> *b) Grant such other and further relief to the Petitioners as may be found just and proper under the circumstances of the case."*

6. It is stated that three immovable properties were offered by the Respondents herein as securities to the Bank. The same are as under:

(i) Residential property H.No.79 First Floor, Paschimi Marg Vasant Vihar, Delhi-110057.

(ii) Property No. 16/8635, Gaushala Marg, New Rohtak, New Delhi-110005.

(iii) Shop LG-04, Ground Floor, Center Stage Mall, Noida.

7. The learned Single Judge by the Order impugned herein permitted the Respondents herein to go abroad from 31.05.2023 to 03.07.2023 subject to the following conditions:

> "*(i) The Petitioners shall not transfer, alienate or create any third party interest except the SBI home loan mortgage which is already created in respect of the property being H. No.79 First Floor Paschimi Marg Vasant Vihar, Delhi-110057.*
>
> *(ii) In addition, the Petitioners shall deposit the original title deeds of the properties being:*
>
> *(a) Property No. 16/8635, Gaushala Marg, New Rohtak, New Delhi- 110005;*
>
> *(b) Shop LG-04, Ground Floor, Centre Stage Mall, Noida;*
>
> *along with the Petitioner No. 1's father's affidavit stating that in case the Petitioners do not return to India the aforesaid properties shall be forfeited to the Union Bank of India. No third party rights shall be created in the above two properties as well.*

> *(iii) The Petitioners shall furnish a detailed affidavit disclosing their revised itinerary with updated dates for travel. The affidavit shall also contain details about their stay at various stations abroad, telephone numbers and residential/hotel addresses. The Petitioners shall also file an undertaking that they shall adhere to the itinerary mentioned in the affidavit and not visit any other stations.*
>
> *iv) The Petitioners shall provide the contact numbers they shall use during the period they stay abroad, and at least one of the said contact numbers will be kept operational at all times, subject to all exceptions, including the period they are on board the aircraft.*
>
> *(v) The Petitioners shall intimate the Court before leaving and within 72 hours of return from abroad.*
>
> *(vi) The Petitioners shall file self-attested copies of their passports along with a copy of their visa with the Bank, on their return to India.*
>
> *(vii) The permission to travel abroad given in this order shall be subject to other applicable conditions and shall not be deemed as a direction to any other authority.*
>
> *(viii) In case any of the above conditions are violated, the security other than the properties mentioned in point (ii) shall be liable to be forfeited*"

8. It is this Order which is under challenge in the present appeal.

9. Learned Counsel for the Bank submits that the dues against the Respondents are more than Rs.75 crores and it is alleged that a sum of Rs.114 crores has been diverted by the Respondents herein to other banks

and has been siphoned off. It is also stated that requests for travelling abroad were made by the Respondents herein earlier also and they have been rejected by this Court *vide* Orders dated 05.08.2022 and 21.04.2023. It is stated that the Respondents have been declared willful defaulter and steps have been taken to lodge an FIR against them and take criminal action against them.

10. *Per contra*, learned Senior Counsel appearing for the Respondents has supported the Order passed by the learned Single Judge. She states that the Bank is fully secured and, therefore, the Bank should not have any objection in Respondents travelling abroad that too for a business meeting.

11. Heard the counsels and perused the material on record.

12. A perusal of the material on record shows that credit facilities have been advanced by the Bank and the Respondents herein have stood guarantee to the said credit. While granting loan, the bank has accepted certain securities. Till date no FIR has been filed and no criminal action has been taken. Nothing has been shown as to whether the loans have been advanced against improper securities and that any action, disciplinary or otherwise, has been initiated by the Bank against the Bank Officer who granted credit facilities to the Respondents without there being adequate security. The possibility of criminal proceedings being taken against the Respondents cannot be a ground to restrain the Respondents from travelling outside the country.

13. It is well settled that freedom to go abroad has much social value and represents the basic human right of great significance [refer: Kent v. Dulles, **1958 SCC OnLine US SC 113**]. The said passage has been quoted and followed by the Apex Court in Satish Chandra Verma v. Union of India and

Others, **2019 SCC OnLine SC 2048**, wherein the Apex Court has held that the right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience.

14. A mere allegation of siphoning off a substantial amount of money without any criminal action being taken against the Respondents, cannot be a ground to restrain them from travelling for carrying out their work. In the judgment impugned herein, the learned Single Judge has ensured that the Bank is properly secured. Learned Senior Counsel appearing for the Respondents has informed this Court that the title deeds of the mortgaged properties have already been deposited to this court to the satisfaction of the concerned Registrar.

15. In view of the above, this Court is not inclined to interfere with the judgment passed by the learned Single Judge.

16. Accordingly, the appeal is dismissed, along with the pending applications, if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

MAY 30, 2023
Rahul