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

+ **W.P.(C) 6871/2019**

MANISH JAIN

..... Petitioner

Through: Mr.Davinder N.Grover, Advocate
(Through VC) with Mr.Krishna
Kumar, Advocate.

versus

RESERVE BANK OF INDIA & ANR

..... Respondents

Through: Ms.Jagriti Bharti, Advocate for RBI.
Mr.Rajiv Kapur with Mr.Aditya
Saxena, Advocates for SBI.

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Date of Decision: 04th October, 2023

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MANMOHAN, J: (ORAL)

1. The present writ petition has been filed challenging the constitutional validity of Master Circular on Frauds dated 01st July, 2016 issued by Respondent No.1 – Reserve Bank of India (RBI).

2. On 26th June, 2019, Mr.Rajiv Kapur, learned counsel for State Bank of India (SBI), which is the lead bank of the consortium, had on instructions stated that the bank had not decided to identify the petitioner's account as



‘fraud’. He had further stated that the matter was still at the contemplation stage and as per the Circular dated 01st July, 2016, the bank would act only after identifying the said account as ‘fraud’.

3. Today Mr.Rajiv Kapur states that in view of the order dated 11th September, 2019, the bank has till date not identified the petitioner’s account as ‘fraud’.

4. As far as the legality and validity of Master Circular on Frauds dated 01st July, 2016 issued by the RBI is concerned, the same is no longer *res integra* as the Supreme Court in ***State Bank of India & Ors. vs. Rajesh Agarwal & Ors., 2023 SCC OnLine SC 342*** has held that the principle of *audi alteram partem* ought to be read in Clauses 8.9.4 and 8.9.5 of the Master Circular on Frauds.

5. Accordingly, Mr.Rajiv Kapur, learned counsel for SBI states that if the bank wants to classify the petitioner’s account as ‘fraud’, it shall follow the procedure prescribed in the Master Circular on Frauds dated 01st July, 2016 as interpreted by the Supreme Court in ***State Bank of India & Ors. v. Rajesh Agarwal & Ors. (supra)***.

6. The statement and undertaking given by Mr.Rajiv Kapur, learned counsel for SBI is accepted by this Court and the respondents are held bound by the same.

7. Recording the aforesaid undertaking and statement, the present writ petition is disposed of as satisfied.

8. At this stage, learned counsel for the respondents-banks state that they have filed applications for clarification and review in the Supreme Court in the case of ***State Bank of India & Ors. Vs. Rajesh Agarwal & Ors. (supra)***.



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Needless to state, any clarification or any order passed by the Supreme Court shall be binding on the parties.

MANMOHAN, J

MINI PUSHKARNA, J

OCTOBER 04, 2023
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Signature Not Verified

Digitally Signed By: ASWANT
SINGH RAWAT
Signing Date: 05/10/2023
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