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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 665 of 2024

Krishnendu Barua
Vs.
State Bank of India & Ors.

Mr. Tulshidas Ray,
Mr. Tirthankar Roy
...for the petitioner

Ms. Deblina Lahiri
...for the State Bank of India

1. Learned counsel for the petitioner submits that the petitioner took a loan from the respondent-Bank. Subsequently, the petitioner made only three months' default. In the meantime, the petitioner was suspended from his job and is now getting only suspension allowance. It is contended that in view of the defaults made by the petitioner, the Bank is deducting the entire amounts which are coming into his account in lieu of such default.
2. The petitioner submits that his mother is about 80 years old and requires constant attendance and medical attention. The petitioner's wife is visually impaired and his son is about to take the plus two Board Examinations. Hence, if the entire amount is deducted, the petitioner will be in doldrums.
3. Learned counsel for the respondent-Bank submits that the petitioner has a history of

defaults, which is reflected in his CIBIL ratings.

That apart, he was also suspended from his job.

4. The petitioner, it is submitted by the respondent-Bank, has an overdraft facility and a personal loan as well as an account with the Bank, from which the amounts are being deducted within full purview of the contract between the petitioner and the Bank. Hence, there is no scope of any interference in the matter.

5. Upon a careful consideration of the submissions of the parties and the materials annexed to the writ petition, I am of the opinion that there is no scope of interference by the writ court, since the matter pertains to the contract between the Bank and the petitioner and a contract, it is well-settled, cannot be re-written by the court.

6. The writ jurisdiction can be invoked if there is any palpable arbitrariness, unreasonableness, mala fides or patent illegality, particularly in the decision-making process of the Bank. Here, the Bank is acting as per its agreement with the petitioner and cannot be faulted as such.

7. Of course, the petitioner has raised a humanitarian aspect of the matter inasmuch as if the entire amount is deducted from the petitioner's account whenever it comes in, it may be difficult for

the petitioner to survive with his family, who are otherwise indigent.

8. Since there is no scope of interference by the writ court, the discretion has to be left with the Bank to consider sympathetically, if the Bank is so permitted under the extant regulations, the petitioner's case.

9. Accordingly, W.P.A. No. 665 of 2024 is disposed of without interfering with the impugned action of the Bank but granting liberty to the petitioner to approach the respondent-Bank for installments/some lenience in deduction of the amounts.

10. If so approached, the Bank shall consider the same sympathetically and decide the petitioner's case in accordance with law and the extant regulations.

11. There will be no order as to costs.

12. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)