

02.07.2024
Item No.111
M/L
gd/ssd

MAT/408/2023
BANK OF BARODA AND ANR.
VS
SUCHITA DINODIYA ANR ORS.
IA NO: CAN/1/2023, CAN/2/2023

Mr. Avishek Guha
..for the Appellants.

Mr. Debasish Roy,
Mr. Koushik Kundu
..for the Respondent No.1.

Mr. Siddhartha Lahiri,
Mr. Ayanabha Raha
..for the Union of India.

Re: CAN 1 of 2023

1. CAN 1 of 2023 has been filed by the appellants to condone the delay of 85 days in filing the appeal.

2. The delay not being inordinate but marginal, we exercise discretion and condone the delay in filing the appeal.

3. CAN 1 of 2023 is allowed.

Re: MAT 408 of 2023

4. The appellant is the Bank of Baroda, Stressed Asset Recovery Branch and Another and the challenge is to an order passed by the learned Single Bench dated 07.11.2022 in WPA 9007 of 2022.

5. In the said writ petition the respondent herein challenged a Look Out Circular issued against

her at the instance of the appellant bank. The Circular came to be issued when the appellant was scheduled to travel from Kolkata to Maldives on December 23, 2020.

6. The learned writ court while allowing the writ petition and setting aside the Look Out Circular has also recorded that the writ petitioner had at the relevant time left the country for the purpose of higher education of her daughter and safely returned to the country and, therefore, there is no justifiable reason, at least at the relevant stage to issue the Look Out Circular.

7. Pertaining to the very same loan transaction, Look Out Circular was issued against Mr. Varun Dinodiya @ Varun Agarwal and others and the said Mr. Varun Dinodiya is the brother-in-law of the respondent/writ petitioner.

8. The said person challenged the Look Out Circular by filing WPA 11243 of 2021 which was disposed of by order dated 24.02.2022 permitting Mr. Varun Dinodiya to travel abroad.

9. Bank of Baroda challenged the said order by way of intra court appeal in MAT 388 of 2022 which was dismissed by the Hon'ble Division Bench by judgment dated 07.04.2022.

10. The said order has attained finality.

11. Another member of the family, namely, Niharika Dinodiya, mother-in-law of the respondent

herein and mother of Varun Dinodiya was also restrained by a Look Out Circular which was challenged by her in WPA 24837 of 2023 which was allowed and the Look Out Circular was quashed by order dated 19.10.2023.

12. The said order has attained finality as the Bank of Baroda had not filed any appeal against the said order.

13. Another member of the family, namely, Anshu Dinodiya, wife of Varun Dinodiya against whom also at the behest of the Bank of Baroda Look Out Circular was issued which was challenged in WPA 18655 of 2022 which was allowed by order dated 22.08.2022 by quashing the Look Out Circular with certain other directions.

14. We are informed that Bank of Baroda has filed an appeal against the said order along with an application for condonation of delay and the matter is pending.

15. Another member of the family, namely, the father-in-law of the respondent herein, Mr. Ramesh Kumar Dinodiya was also issued the Look Out Circular which was challenged in WPA 26963 of 2023 which writ petition was allowed by order dated 07.12.2023 and the Look Out Circular was set aside.

16. The learned advocate for the respondent/writ petitioner submitted that the Bank of

Baroda has not challenged the order dated 7th December, 2023.

17. Thus, it appears that in respect of the same loan transaction where members of the same family against all of whom Look Out Circulars were issued were successful before the learned Single Bench and one of them was successful upto the Hon'ble Division Bench.

18. That apart, it is submitted that proceedings are pending before the Debts Recovery Tribunal at different stage and in terms of the liberty granted by the Division Bench the bank accordingly proceeding with the matter.

19. Therefore, we are not inclined to interfere with the order impugned and, accordingly, the appeal is dismissed on the aforementioned ground with the direction that in the event the respondent/writ petitioner proposed to travel abroad, the dates of travel and the place of her proposed residence when abroad shall be intimated to the appellant bank well in advance.

20. In the light of the above, the question of law which has been decided by the learned Single Bench is left open.

21. We have left the question of law decided by the learned writ court open for a decision at a later point of time since in one of the matters this court had

taken a different view and it is not clear as to whether the aggrieved borrower in the said case had preferred an appeal before the Hon'ble Supreme Court.

22. One more reason which has persuaded to us not to interfere with the order passed by the learned Single Bench impugned in this appeal is that a coordinate Bench in MAT 388 of 2022 by a judgment dated 07.04.2022 concerning another member of the very same family declined to interfere with the order of the learned Single Judge permitting such member of the family to travel abroad passed in a writ petition challenging a Look Out Circular.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)