16th April, 2024
(AK)
15-16

W.P.A 7696 of 2024

Soumendra Roy Choudhury, Chairman, All India UCO Bank Officers' Federation (AIUCBOF) Welfare & Benevolent Trust
Vs.
UCO Bank, Southern Avenue Branch and others

With
W.P.A 2304 of 2024
IA No. CAN 1 of 2024

All India UCO Bank Officers Federation Welfare and Benevolent Trust
Vs.
UCO Bank Limited and another

Mr. Saurabh Guha Thakurata
Mr. Sujit Lal Sikder
Mr. J. Basu
Mr. Abhratanu Sarkar
...for the petitioner in WPA 7696 of 2024.

Mr. Harsha Raj
Mr. Arnab Dutta
Mrs. Labani Dey
Mr. K. Raihan Ahmed
...for the petitioner in WPA 2304 of 2024 & for the respondent nos.4 to 7 in WPA 7696 of 2024 .

Mr. Rahul Sarkar
Ms. Dipika Sarkar
Ms. Shreya Deashi
...for the respondent-Bank.

1. Learned counsel for the petitioner in WPA 7696 of 2024 was removed as a trustee and the chairman of the Board in respect of a trust by the name of All

India UCO Bank Officers' Federation Welfare and Benevolent Trust.

2. The petitioner has been advised to challenge the said removal by way of an independent civil suit.

3. However, the present challenge is against the petitioner being restrained from operating the Bank account standing in the name of the trust.

4. It is argued by learned counsel for the writ petitioner in WPA 7696 of 2024, namely one Soumendra Roy Choudhury, that the trust deed itself vested the entire right, title and interest in the property-in-question including the Bank account in the trust.

5. After being so divested, the Federation itself, which was the settlor, did not retain any power to change the composition of the trust or to interfere in the matters of the trust.

6. Learned counsel places reliance on Clause 7(ii) of the trust deed to contend that even the power of removal of one of the trustees was vested in the Board of Trustees which, if it found that any one or more trustee had acted detrimental to the interest of the trust, can remove the trustee by three fourth majority of Life trustees and simple majority of the balance trustees in a meeting of the Board of Trustees, upon service of show-cause notice on such trustee.

7. It is argued that in the instant case, without resorting to such procedure, the Federation, that is, the settlor, by a special resolution passed by the working committee of the said Federation, reconstituted the entire structure of the Board of Trustees, which is palpably *de hors* the law.

8. Learned counsel for the petitioner argues that as per Section 45(Z)(B) of the Banking Regulation Act, 1949, no notice of the claim of any person, other than the person in whose name a deposit is held by a banking company, shall be receivable by the banking company, nor shall the banking company be bound by any such notice though even expressly given to it.

9. In the present case, it is argued that contrary to such provision, the respondent-Bank effected a change in the name of the trustees against the trust, which was the account holder, which is in stark contravention of Section 45(Z)(B) of the 1949 Regulation.

10. Hence, learned counsel argues that both the removal of the petitioner as well as the change in the list of names in the account of the Bank were illegal.

11. Accordingly, the petitioner, and not the private respondents, ought to be permitted to operate the bank account on behalf of the trust.

12. The private respondent in WPA 7696 of 2024, on the other hand, is the writ petitioner in WPA 2304 of 2024.

13. In WPA 2304 of 2024, an interim order was passed on February 29, 2024 to the effect that during pendency of the writ petition, the respondent no.1-Bank shall permit the writ petitioner therein to operate its account lying with the UCO Bank.

14. Learned counsel appearing for the writ petitioner in WPA 2304 of 2024 submits that the Federation and the body of members of the trust are virtually one and the same and cannot be distinguished for all practical purposes.

15. It is further argued that the writ petitioner in WPA 7696 of 2024 has not yet preferred any formal challenge to the resolution or the removal of the said writ petitioner.

16. Thus, as of today, in the records of the Bank in respect of the account-in-question, the writ petitioner in WPA 2304 of 2024 and the reconstituted trustees are mentioned as the account holders.

17. Hence, there is no scope of contravention of Section 45(Z)(B) of the 1949 Regulation.

18. A perusal of the trust deed itself indicates that the writ petitioner in WPA 7696 of 2024, namely Mr. Roy Choudhury, has made out a strong *prima facie*

case for removal of the said petitioner as a trustee and on the reconstitution of the trust being tainted inasmuch as not only was all the property which was the subject matter of the trust vested in the trust, thereby divesting the Federation/settlor, Clause 7(ii) specifically stipulates a provision for removal of a trustee on the grounds as contemplated therein which was not followed.

19. The removal of Mr. Roy Choudhury by way of a resolution by the settlor/Federation might be, *prima facie*, contrary to law.

20. However, the writ court is not the appropriate forum for preferring a challenge to an illegal removal of a trustee or regarding the operation and functioning of a trust but the civil court is the appropriate forum for deciding on such issues.

21. Moreover, a practical and pragmatic approach has to be adopted by this court at the present juncture till the matter is canvassed before the civil court.

22. As of today, good bad indifferent, the reconstituted trustees have been incorporated in the account of the trust held with the respondent-Bank and are operating the said Bank account.

23. Even if the rights of the said trustees are in doubt, the same pertains to the domain of a civil adjudication.

24. The Bank, as a financial institution, does not and cannot have the authority to adjudicate on the civil rights of the parties by entering into the veracity of the removal of Mr. Roy Choudhury as a trustee and a Chairman.

25. Such power vests with the civil court.

26. From the perspective of the Bank, thus, it is duty-bound to honour the requests of the present incumbents who have been mentioned as the account holders and to permit them to operate the account.

27. On a more basic premise, in the event any restraint order is passed at this juncture or the existing arrangement is altered by this court before any such order is passed by the civil court, if approached, the entire functioning of the trust will come to a standstill.

28. Throwing the spanner in the works of the trust would not serve any effective purpose, since the same would detrimentally affect several entities, even apart from the parties herein.

29. Thus, it is best left to the civil court to adjudicate the issues involved, if so approached by the parties.

30. Hence, WPA 7696 of 2024 and WPA 2304 of 2024 are disposed of by granting liberty to the petitioner in WPA 7696 of 2024 to institute a civil suit before the appropriate civil court having jurisdiction

challenging the removal of the said petitioner as a trustee and Chairman from the trust-in-question and seeking consequential reliefs regarding the functioning and operation of the trust, including the operation of its Bank account.

31. The petitioner in WPA 7696 of 2024, needless to say, shall be also at liberty to pray for interlocutory orders from the said civil court with regard to the operation of the Bank account-in-question.

32. If so approached, the civil court shall decide such interim/ad interim prayers and thereafter the suit independently, in accordance with law, without being influenced in any manner by any of the observations made herein.

33. The merits of the rival contentions between the parties have not been gone into by this court at all.

34. Till any order is passed by the civil court and subject to such order as passed by the civil court, the present reconstituted trustees shall be entitled to operate the Bank account in the name of the trust, subject, of course to the outcome of the civil suit and any interlocutory order if passed therein.

35. It is further clarified that nothing in this order shall create an impediment to the civil court in passing independent interlocutory orders without being fettered in any manner by the *ad hoc* arrangement made herein.

36. The arrangement is purely on *ad hoc* basis to ensure that the functioning of the trust does not stop in the meantime and is not to be construed as any adjudication, even on a *prima facie* basis, on the rights and contentions of either of the parties.

37. CAN 1 of 2024 is also disposed of in the light of the above observations.

38. There will be no order as to costs.

39. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)