

10th May,
2024
(AK)
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W.P.A 11057 of 2024
IA No: CAN 1 of 2024

Dr. Sunip Banerjee
Vs.
The State Bank of India and others

Mr. Jaydeep Kar
Mr. Billadwal Bhattacharya
Mr. Rajdeep Bhattacharya
Mr. Souradeep Dutta
Mr. Arindam Kundu
...for the petitioner.

Mr. Subhendu Bandopadhyay
...for the SBI.

Mr. Joydip Banerjee
Mr. Aditya Dutta
...for the State.

Mr. Dibyendu Chatterjee
Mr. Pritam Majumdar
Mrs. Reshmi Ghosh
Ms. Barnali Gantait
Mr. Rahul Deb Goenka
Ms. Satbdi Das
Mr. Mainak Singha Barma
...for the respondent nos.8 & 9.

1. Affidavit-of-service filed in court today be kept on record.
2. The application along with the writ petition are taken up for hearing, in view of the relief sought in both being similar.
3. The limited grievance of the writ petitioner is that the respondent-Bank, that is, the State Bank of India has frozen the accounts of the petitioner without any rhyme or reason and has intimated the

same by the impugned communication dated April 5, 2024 annexed at page-123 of the writ petition.

4. Learned senior counsel appearing for the writ petitioner places reliance on an unreported Division Bench judgment in the matter of *Rina Habiba vs. The Bank of India and others* where the Division Bench had specifically enumerated the proposition that in the absence of any lien being exercised by the Bank over the relevant account or the funds lying to the credit of a constituent, the Bank cannot stop or freeze the operation of any account. At the very highest, the Bank may put the constituent on notice that it has received complaints or the Bank may call upon the complainant to obtain an appropriate freezing order from a forum duly authorized to pass such an order. In the absence of a Bank either having a claim against the constituent or a lien on the Bank account or the Bank being obliged to obey any instructions of the Central Bank or any order of court, a Bank cannot freeze any account of its constituent for any period at all.
5. The said judgment has been followed by a learned coordinate Bench of this court in *M/s. Modello Ventures LLP vs. The Indian Overseas Bank and others*.

6. Learned senior counsel contends that although initially an *ex parte* order had been obtained by the private respondent against the petitioner in a civil suit, upon the writ petitioner moving this court, the same was set aside.
7. In any event, it is pointed out that the said injunction was not with regard to operation of the Bank accounts-in-question.
8. Learned counsel for the Bank submits that it transpires from the constitution of the petitioner and the private respondent that the latter is the parent body under which the petitioner operates.
9. It is also sought to be portrayed that the Bank has no role to play in the issue.
10. Learned counsel appearing for the private respondents supports the freezing order and by relying on certain documents seeks to propound that it has a money claim against the petitioner concern.
11. Be that as it may, it is evident that there is neither any court order directing freezing of the accounts of the petitioner, nor is there any order passed by any authorized forum in due process of law which can prompt or compel the respondent-Bank to freeze the accounts of one of its customers, that is, the petitioner.

12. The Bank itself does not have any claim or lien as such over the accounts, nor has it claimed any such right.
13. Merely at the behest of the private respondents, the account-in-question could not have been frozen by the Bank.
14. The said action is not only palpably illegal and unauthorized, but if Banks take recourse to such actions in future, it would erode the confidence reposed in Banks by their customers.
15. In view of the above observations, the impugned action of the respondent-Bank in debit freezing the accounts of the petitioner-in-question bearing nos.11201625286 And 32778831568 is held to be palpably illegal.
16. Accordingly, WPA 11057 of 2024 and CAN 1 of 2024 are allowed on contest, thereby quashing the decision of the Bank to freeze the accounts-in-question of the petitioner.
17. The respondent-Bank shall immediately defreeze the said accounts and permit the petitioner to operate the accounts fully.
18. However, it is made clear that this court has not entered into the merits of the respective contentions between the parties in the pending civil litigation and it will be open to the civil court in seisin of the

matter to deal with all questions in due process of law.

19. There will be no order as to costs.
20. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)