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25.04.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 11498 of 2021

Gopinath Dham Construction
Private Limited & Anr.

Vs.

The Reserve Bank of India & Ors.

Mr. Arnab Mukherjee,
Ms. Shreyasi Manna
... for the petitioners

Ms. Soni Ojha,
Ms. Sonia Nandy
...for the respondent no. 2

Mr. Om Narayan Rai,
...for the respondent no. 3

1. The case of the petitioners is that the petitioners, by mistake, credited an amount of Rs.2,00,000/- in favour of the respondent no. 4. It is argued that at the relevant point of time, the company did not exist and, as such, there was no scope of any payment. More importantly, it is sought to be contended that the petitioners had an agreement with the respondent no. 4 for the respondent no. 4 to supply certain goods. However, despite the petitioners having paid Rs.1,24,000/- and Rs.40,000/- at different points of time, no such goods were handed over by the said respondent. As such, there was no occasion to credit the amount in

favour of the respondent no. 4 and the same should be returned to the petitioners.

2. Learned counsel appearing for the respondent no. 2/IDBI Bank, that is, the banker of the petitioners, submits that the Bank was not at fault since as per the request of the petitioners, the Bank credited the amount to the respondent no. 4 in due adherence to the banking norms.

3. Learned counsel appearing for the respondent no. 3/Indian Bank, where the amount was credited, places reliance on the judgment of *Jammu and Kashmir Bank Ltd. vs. Attar-Ul-Nissa & Ors*, reported at AIR 1967 SC 540, where it was held that as soon as the money is credited into the account of the constituent, even though the person paying it may have paid it by mistake, it becomes the money of the constituent, and the bank cannot pay it back to the person who paid it to the account of the constituent on his representation that it was paid by mistake, without obtaining the consent of the constituent.

4. A perusal of the affidavits as well as the writ petition show that there is a dispute raised by the constituent here, in whose favour the amount was credited, as to the liability of the petitioners to pay such amount. Of course, the petitioners have

sought to make out a case that there was no such liability on their part.

5. Be that as it may, in consonance with the proposition laid down in *Jammu and Kashmir Bank Ltd. (supra)*, it is not within the authority of either of the Banks to reverse the transaction merely for the asking, on the ground that the same was transferred by mistake, in the teeth of rebuttal of the claim by the person in whose favour the amount was credited.

6. As such, there is no scope of granting any relief to the petitioners by directing the Banks to reverse the transaction.

7. However, the petitioners are always at liberty to approach the competent civil court to seek recovery of the amount on the case sought to be projected by the petitioners.

8. It is made clear that this Court has not gone into the merits of the allegations and counter-allegations and it will be open to the competent civil court, if so approached, to decide on all issues between the private parties on merits, without being influenced in any manner by any of the observations made herein.

9. In view of the above observations, W.P.A. No. 11498 of 2021 is dismissed on contest with liberty

to the petitioners to approach the competent civil court in the light of the above observations.

10. There will be no order as to costs.

11. 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.)