

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 24.06.2024

DELIVERED ON: 24.06.2024

**CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**M.A.T. 1190 of 2024
With
I.A. No. CAN 1 of 2024**

**Rahul Tantia
Vs.
Union of India & Ors.**

Appearance:-

**Mr. Suddhasatwa Banerjee
Mr. R.N. Ghose
Ms. Susna Santra
Ms. Tonoya Ghose**

.....for the appellant

**Mr. Ajay Gaggar
Mr. Uttiyo Mallick**

.....for the State Bank of India

**Mr. Nandalal Singhania
Mr. Arijit Majumdar.....
Mr. Yash Singhania**

.....for the Union of India

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal by the writ petitioner is directed against the order dated 19th June, 2024 in W.P.A. 15421 of 2024 declining to grant an interim order of the Look Out Circular issued against the appellant in the year 2022.

2. The learned advocate for the appellant would strenuously contend that the Hon'ble Division Bench of the Bombay High Court in the case of **Viraj Chetan Shah vs. Union of India & Ors.** reported in **2024 SCC online Bombay 1195** has declared the amended memorandum issued by the Ministry of Home Affairs as *ultra vires* and consequently, the Look Out circular issued on the sole ground that a requisition was made by a Public Sector Bank is no longer valid.
3. Admittedly, the Look Out circular was issued somewhere in the year 2022. However, it is an admitted position that there is a decree passed against the appellant/writ petitioner by the Debts Recovery Tribunal sometime in April, 2024, where the amount payable by the appellant is more than Rs. 250 crores.
4. The learned advocate for the appellant placed reliance on the decision of the Hon'ble Supreme Court in the case of **Kusum Ingots & Alloys Ltd. vs. Union of India & Anr.** reported in **(2004) 6 SCC 254** for the proposition that an order passed in a writ petition questioning the Constitutionality of a Parliamentary Act, whether interim or final, keeping in view the provisions contained in clause (2) of Article 226 of the Constitution of India will have effect throughout the territory of India, subject, of course, to the applicability of the Act.
5. The appellant in the writ petition has challenged the Look Out circular and there is no challenge to the notification issued by the Central Government. The notification, admittedly, is not a Parliamentary Act. The question as to whether the judgment in the case of *Viraj Chetan Shah (supra)* would be a binding precedent or that of a persuasive value, is to be considered in the writ

petition and in our view, the learned Single Bench rightly directed affidavits to be filed as the Union of India is to be heard in the matter. That apart, this Court has also considered the effect of such a circular at the behest of a Public Sector Bank and given its interpretation that the Look Out circular can be issued at the behest of the Bank as public interest is involved since the amount due and payable by the borrower is undoubtedly, public funds.

6. Therefore, we are of the view that the order passed by the learned Single Bench declining to grant any interim order would not call for interference. The ground, which have been raised by the appellant in this appeal are all grounds, which have to be considered in the writ petition and precisely, for such reason, the learned Single Bench has observed that the Court does not make any conclusive pronouncement as of now, as has been done by the High Court of Bombay and was of the view that the matter needs deeper consideration after receipt of the affidavits.
7. Therefore, we find no ground to interfere with the impugned order. Accordingly, the appeal and the connected application are dismissed
8. No costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)