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W.P.No.19531 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19531 of 2021

And

W.M.P.Nos.20813, 20815 and 20816 of 2021

1.V.Dwarakanthan
2.D.Nirmala

... Petitioners

Vs.

1.Committee for Identification and Classification of
Wilful Defaulters
Canara Bank,
Asset Recovery Management Bank,
2nd Floor, No.525,
Anna Salai,
Teynampet,
Chennai – 600 018.

2.The Branch In Charge
Canara Bank,
Asset Recovery Management Bank,
2nd Floor, No.525,
Anna Salai,
Teynampet,
Chennai – 600 018.

3.The Reserve Bank of India,
Department of Banking Regulation,
13th Floor, Central Office Building,
Mumbai – 400 001.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to



W.P.No.19531 of 2021

issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to the impugned order dated 26.07.2021 declaring the petitioners as a 'Willful Defaulters', quash the same as illegal, incompetent and unconstitutional, and consequently forbearing the respondents herein from declaring the petitioners as a 'Willful Defaulter'.

For Petitioners : Mr.A.Sandeepkumar

For Respondents : Mr.Raghunathan for R2
for M/s.T.S.Gopalan & Co.
R1 and R3 – No Appearance

O R D E R

W.M.P.No.20813 of 2021 filed to permit the petitioners to file the writ petition jointly is allowed, subject to payment of separate sets of court-fee by the petitioners within two weeks from the date of receipt of a copy of this order. In default of compliance, the order passed in the writ petition shall be applicable only to the first petitioner.

2.The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent relating to the order dated 26.07.2021 declaring the petitioners as 'Willful Defaulters', quash the same as illegal,



W.P.No.19531 of 2021

incompetent and unconstitutional, and consequently forbearing the respondents from declaring the petitioners as 'Wilful Defaulter'.

3.The learned counsel appearing for the petitioners submitted that the first respondent declared the petitioners as wilful defaulters in connection with the loan facilities provided to Vaasan Medical Centre (India) Private Limited by the Canara Bank and further submitted that in the impugned order the first respondent claim that the petitioners stood as guarantor for Vaasan Medical Centre (India) Private Limited and mortgaged the property and since Vaasan Medical Centre did not repay the loan amount enquiry was conducted and declared the petitioners as wilful defaulters without providing any opportunity to the petitioners, which is clear violation of principles of natural justice and is not sustainable one.

4.The learned counsel appearing for the second respondent submitted that as against the order passed by the first respondent, revisional remedy is available to the petitioners before the Reviewing Committee consisting of Managing Director and two independent Directors and instead of approaching the Reviewing Committee, the petitioners have filed this writ petition which is not sustainable one.



W.P.No.19531 of 2021

WEB COPY

5.Perusal of records disclose that as against the impugned order there is revisional remedy available to the petitioners in terms of Clause 3 (c) of the RBI's Master Circular dated 01.07.2015.

6.For better appreciation, Clause 3 (c) of The Master Circular on Wilful Defaulters [RBI/2015-16/100 DBR.No.CID.BC.22/20.16.003/ 2015-16 dated July 1, 2015] is extracted hereunder:

"(c) The Order of the Committee should be reviewed by another Committee headed by the Chairman / Chairman & Managing Director or the Managing Director & Chief Executive Officer / CEOs and consisting, in addition, to two independent directors / non-executive directors of the bank and the Order shall become final only after it is confirmed by the said Review Committee. However, if the Identification Committee does not pass an Order declaring a borrower as a wilful defaulter, then the Review Committee need not be set up to review such decisions."

7.In view of the above, this Court, without interfering with the order impugned in this writ petition, grant liberty to the petitioners to



W.P.No.19531 of 2021

file appropriate petition before the Reviewing Committee in terms of Clause 3 (c) of the RBI's Master Circular dated 01.07.2015. The period during which this writ petition was pending before this Court is excluded for the purpose of limitation.

8.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

05.08.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

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5/6



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W.P.No.19531 of 2021

M.DHANDAPANI,J.
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