$~120

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 6425/2024 & CM APPL. 26801/2024, CM APPL. 26802/2024

SMT. SINU GUPTA & ANR. ..... Petitioners

Through: Mr. Samman Vardhan Gautam, Advocate for P-1
Mob: 7717730165
Mr. Harsh Raj, Advocate for P-2.
Mob: 8935818384
Email: hrtutu3737@gmail.com

versus

ICICI BANK & ANR. ..... Respondents

Through: Ms. Chetna Bhalla, Advocate for R-1 & 2.
Mob: 9818280712
Email: advchetnabhalla@gmail.com

**CORAM:**
**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**O R D E R**

% **07.05.2024**

**CM APPL. 26802/2024 (For Exemption)**

1. Exemption allowed, subject to just exceptions.

2. Application is disposed of.

**W.P.(C) 6425/2024 & CM APPL. 26801/2024**

3. The present petition has been filed seeking directions to the respondents to address the complaint submitted by the petitioner no. 2 vide Email dated 27th March, 2024. There is further prayer for direction to the respondents to not threaten/ intimidate the petitioner over phone calls,

Emails or any other possible means.

4. Learned counsel appearing for the petitioners submits that the petitioners are the guarantors to the four loans that were taken by their sister-in-law, i.e., Smt. Anuradha Gupta in June, 2018.

5. It is submitted that the sister-in-law of the petitioners, i.e., Smt. Anuradha Gupta, had approached the respondent-ICICI bank to avail a mortgage loan for personal purposes, for which, in good faith, the petitioners being close family relations, stood as guarantors.

6. It is submitted that the loan has been issued by the respondent-ICICI bank in favour of M/s J.P Industries, whose sole proprietor is the elder brother of petitioner no. 2.

7. Learned counsel appearing for the petitioners submits that the petitioners never stood as guarantors for any loan account of M/s J.P Industries, but has stood guarantors only for the purposes of loan account of Smt. Anuradha Gupta, sister-in-law of petitioner no. 2.

8. It is submitted that the petitioners as well as the mother of petitioner no. 2, are compelled to live in a constant state of threat and fear, due to the unlawful acts of officials of the respondent-ICICI bank, who visit the residence of the petitioners, even though the petitioners are not liable to pay any money to the respondent-bank.

9. It is further submitted that Smt. Anuradha Gupta and Shri Umesh Gupta, reside in a flat adjoining the residence of the petitioners, which is in the knowledge of respondent-ICICI bank.

10. However, despite having knowledge, the officials of respondent-ICICI bank willfully and deliberately have been visiting the residence of the petitioners without prior intimation, and have threatened the mother of the

petitioners, who is an old and ailing lady aged about 87 years of age.

11. Per contra, learned counsel appearing for respondents-ICICI Bank, submits that the petitioners are co-borrowers in the loans taken by the aforesaid company and not mere guarantors.

12. She draws the attention of this Court to the Facility Agreement dated 12th June, 2018, wherein the name of the petitioners occur as borrowers and they have signed under the head, "borrower name" in the said Facility Agreement, along with Smt. Anuradha Gupta and Shri Umesh Gupta.

13. Thus, she submits that the petitioners are also borrowers in the said loan account. However, learned counsel appearing for the petitioner submits that it has always been their understanding that the petitioners were only the guarantors, as the loan was disbursed in the name of the company, which is under the proprietorship of Mr. Umesh Gupta, the elder brother of petitioner no. 2, in which the petitioners, have no stay.

14. He further submits that the petitioner no. 2 has already entered into a partition with his brother Mr. Umesh Gupta.

15. Be that as it may, without going into the aforesaid controversy, it is directed that the complaint sent by petitioner no. 2 vide Email dated 27th March, 2024, shall be considered by the respondent-ICICI bank.

16. The petitioners shall be granted a hearing by the concerned officials of the respondent-bank. Further, the respondent-bank shall also ensure that it shall comply with its Debt Management Policy with respect to giving the identity and authority of the persons, who are authorized to represent the bank for recovery of dues.

17. At this stage, learned counsel appearing for the respondent-bank submits that the aforesaid policy is being followed and is being complied

with by the bank.

18. The aforesaid statement of the respondent-bank is taken on record.

19. The respondent-bank is held bound to follow its own Guidelines and Policy, before any person authorized by the bank, visits the residence of the petitioners.

20. With the aforesaid directions, the present petition is disposed of along with the pending applications.

**MINI PUSHKARNA, J**

**MAY 7, 2024**
ak