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

\+ W.P.(C) 13447/2024 & CM APPL. 56213/2024

VIKAS YADAV .....Petitioner

Through: Ms. Bhargavi K & Mr. Ishan Karki, Advs.

versus

RESERVE BANK OF INDIA & ORS. .....Respondents

Through: Mr. Ayush Srivastava & Ms. Snehashish Bhattacharya, Advs. for RBI.

Ms. Garima Khanna, Adv. for ICICI Bank.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

<u>O R D E R</u>

% **24.09.2024**

<u>CM APPL. 56214/2024 – EXMP.</u>

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>CM APPL. 56215/2024</u>

3. This is an application seeking permission to file a lengthy list of dates and synopsis.

4. For the reasons stated in the application, the same is allowed.

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5. The petitioner is invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950, thereby seeking quashing of an order dated 08.07.2024 passed by the respondent no.2/Banking Ombudsman.

6. Learned counsel for the respondent no.3/ICICI Bank is present on advance notice.

7. Learned counsel for the respondents request time to seek instructions.

8. Having heard the learned counsel for the petitioner, there is no need for a reply on the part of the respondents. In a nutshell, it is the case of the petitioner that he has been a victim of a cyber fraud, as a result of which, he has been wrongly foisted with the liability of ₹14,22,238/- by the respondent no.3/ICICI Bank.

9. It appears that a complaint dated 16.06.2024 was filed by the petitioner against the respondent no.3/ ICICI Bank, before the Respondent no.2/Banking Ombudsman, in terms of The Reserve Bank-Integrated Ombudsman Scheme, 2021 **[‘scheme’].** The said complaint has been dismissed *vide* impugned order dated 08.07.2024, by the respondent no.2/Banking Ombudsman, by assigning the following reasons:

> “We have carefully examined the captioned complaint and our observations are given here under.
>
> 2.1 The complainant is with respect to alleged harassment by the bank to recover a loan that was not taken by the complainant. 2. As per the attached documents (file named as Continued_Harassment.pdf), the matter seems to have been examined by the Hon'ble Court. It is not clear whether there is/are any direction(s) to this office for compliance by the Hon'ble Court. 3. This office regrets its inability to intervene in a matter that was already examined or is under examination by the Hon'ble Court. 4. The complaint is therefore non-maintainable and is rejected.
>
> 3. In view of the above, we are constrained to classify your complaint as non-maintainable and close it under clause 6(1)(a)10(2)(b)(ii) of the Reserve Bank - Integrated Ombudsman Scheme, 2021[1].”

10. Learned counsel for the petitioner has urged that the matter has not been examined by any Court and the petitioner has merely instituted a criminal complaint in respect of the alleged cyber fraud, which is pending before the Court having criminal jurisdiction.

11. Learned counsel for the petitioner has referred to the aforesaid scheme and has invited the attention of this Court to clause (10) which provides for the kinds of complaint that may or may not lie before the Banking Ombudsman, sub-clause (2) of which clause provides for complaints that shall not lie under the scheme. For our purpose, the relevant clause would be sub-clause (2)(b) of clause (10), which reads as under:-

> (2) A complaint under the Scheme shall not lie unless:
>
> …(b) the complaint is not in respect of the same cause of action which is already-
> (i) pending before an Ombudsman or settled or dealt with on merits, by an Ombudsman, whether or not received from the same complainant or along with one or more complainants, or more of the parties concerned;
>
> (ii) pending before any Court, Tribunal or Arbitrator or any other Forum or Authority; or, settled or dealt with on merits, by any Court, Tribunal or Arbitrator or any other Forum or Authority, whether or not received from the same complainant or along with the one or more of the complainants/parties concerned.

12. A bare perusal of the aforesaid clause would show that it is only when a matter pertaining to the alleged deficiency in service, is pending before any Court, Tribunal or Arbitrator or any other forum or authority, the complaint shall not lie with the Banking Ombudsman. The filing of a criminal complaint *per se* would be outside the scope and ambit of the said stipulation.

13. In view of the above, the present petition is allowed and as requested by the learned counsel for the petitioner, the matter is remanded back to the respondent no.2/Banking Ombudsman to afford a fresh hearing to the petitioner and thereafter, pass a reasoned order in accordance with law.

14. A copy of this order be given *dasti* to the learned counsel for

the petitioner for information and necessary compliance by the respondent no.2/Banking Ombudsman.

DHARMESH SHARMA, J.

SEPTEMBER 24, 2024
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