D/L 05
20.03.2025
Court No.14
PRADIP

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 4681 of 2025

Gupta Power Infrastructure Limited & Ors.
Vs.
Bank of India & Ors.

Mr. Suddhasatva Banerjee
Mr. Ishan Saha
Mr. Tanay Agarwal
Mr. Shivam Bhimsaria
Ms. Akansha Singhania
…for the Petitioners.

Mr. Debashis Saha
Mr. Avirup Roy Sanyal
Ms. Sucheta Pal
…for the Bank of India.

1. Affidavit of service filed in Court today is taken on record.
2. The petitioners challenge the show-cause notice and the declaration of fraud by the bank on the ground that the data and documents relying on which the show-cause notice and the declaration was made were not served upon the petitioners. Opportunity of hearing to the petitioners prior to declaration of fraud was also not provided by the bank.
3. A preliminary objection has been raised by the learned advocate representing the bank with regard to the maintainability of the writ petition before this Court. It has been submitted that the entire cause of action arose outside the jurisdiction of the Calcutta High Court, and as such, this Court does not have the territorial jurisdiction to entertain the writ petition.

4. Only the show-cause notice and the communication declaring the petitioners' account as fraud was served within the jurisdiction of the Calcutta High Court, that too, because the petitioner no. 1 has its registered office within the jurisdiction of the Calcutta High Court. That apart, all the facts leading to the instant case arose outside the jurisdiction of this Court.
5. It has been submitted that no averment has been made in the writ petition with regard to the place where the cause of action arose. The bank contends that, the petitioners ought not to be permitted to move the Calcutta High Court for relief.
6. In support of such submission, reliance has been placed on the judgments delivered by the Hon'ble Supreme Court in the matter of ***Alchemist Ltd. & Anr. Vs. State Bank of Sikkim & Ors.*** reported in ***(2007) 11 SCC 335***, ***State of Rajasthan & Ors. Vs. M/s. Swaika Properties & Anr.*** reported in ***(1985) 3 SCC 217***, ***Oil and Natural Gas Commission Vs. Utpal Kumar Basu & Ors.*** reported in ***(1994) 4 SCC 711*** and the judgment delivered by a coordinate Bench of this Court on 13th December, 2021 in ***WPA 12067 of 2021*** with ***CAN 1 of 2021*** in the matter of ***Kamsco Industries Private Limited & Ors. Vs. Union of India & Ors.***
7. In all the aforesaid matters the Court consistently held that, mere service of notice in the registered office could not give rise to a cause of action within that jurisdiction, unless the service of such notice was an integral part of the cause of action. For the purpose of deciding whether the facts averred would or would not constitute a part of cause of action, one has to consider whether such fact

constitutes a material, essential and integral part of the cause of action. It is no doubt true that, even if a small fraction of the cause of action arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the petition.

8. The bank contends that in the instant case, the loan was obtained by the petitioners outside the jurisdiction of the Court, the fraud was detected outside the jurisdiction of the Court and it is only because the petitioner no. 1 has its registered office at Kolkata, that the notices were served in Kolkata. Merely having the registered office in Kolkata will not give right to the petitioners to invoke the jurisdiction of the Calcutta High Court.

9. Prayer has been made for dismissal of the writ petition on the ground of lack of territorial jurisdiction of this Court to entertain the writ petition.

10. In support of the submission that, the Calcutta High Court has the jurisdiction to entertain the writ petition, learned advocate for the petitioner submits that, the entire cause of action to file the writ petition arose within the jurisdiction of this Court. It is only that the situs of the office of the respondents is outside the jurisdiction of this Court. Service of the show-cause notice and order declaring the petitioners' accounts as fraud, engagement of the forensic auditor all took place within the jurisdiction of this Court. The records of the petitioner no. 1 company are lying within the jurisdiction of this Court. The bank invoked the jurisdiction of the National Company Law Tribunal at Kolkata because the registered office of the petitioner no. 1 is in Kolkata. The right of the petitioners got affected because of the illegal and

arbitrary manner of declaration of fraud within the jurisdiction of this Court. All the aforesaid facts constitute a material and integral part of the cause of action for invoking the jurisdiction of this Court.

11. In support of the said submission learned advocate for the petitioner relies on the judgment delivered by this Court on 14th December, 2021 in ***MAT 927 of 2021*** with ***CAN 1 of 2021*** in the matter of ***Eldyne Electro Systems Pvt. Ltd. & Ors. Vs. Union of India & Ors.*** and the judgment delivered by this Court in the matter of ***Pankaj Panwar Vs. Lalit Kala Akademi*** reported in ***AIR 2015 CAL 67*** wherein the Court held that, the plea of affection of right or interest by reason of the order/notice being served, if based on a substantial fact forming a part of the bundle of facts constituting the cause of action, would indeed be relevant for determination of the question as to whether the writ petition ought to be entertained or not. If the affection of right takes place within the jurisdiction of this Court, the same has to be taken as an integral, essential and material part of the lis constituting the cause of action to approach the Court.

12. Upon hearing the parties, and on perusal of the materials on record it appears that, because of the petitioner no. 1 having its registered office within the jurisdiction of the Calcutta High Court, all notices and orders were served upon the petitioners within the jurisdiction of this Court. The right of the petitioners to defend themselves accrues within the jurisdiction of this Court. The record of the case lies within the jurisdiction of this Court. The forensic auditor conducted the

forensic audit within the jurisdiction of this Court and, thus, it cannot be said that this Court does not have any jurisdiction to decide the issue or that no part of the cause of action arose within the jurisdiction of this Court.

13. On the contrary, it is seen that material, essential and integral part of the cause of action arose within the jurisdiction of this Court thereby conferring jurisdiction on this Court to decide the issue on merits.

14. Accordingly, the preliminary objection raised by the bank to entertain the writ petition cannot be accepted.

15. The matter has been heard on merits.

16. It appears that, the subject bank happens to be one of the banks in a consortium of banks which granted loan in favour of the petitioners. The lead bank, the Canara Bank, engaged a forensic auditor to conduct audit of the accounts of the petitioners and the said audit report formed the basis for issuance of the show-cause notice to the petitioners for declaring the bank account of the petitioners as fraud.

17. Surprisingly, the documents and the data relying on which the show-cause notice was issued were not forwarded to the petitioners. According to the bank, all details and documents were within the knowledge of the petitioners and there was no requirement of further service of the documents and data all over again.

18. It further appears that, prior to declaration of fraud, opportunity of hearing was also not given to the petitioners on the ground that the same was not sought for.

19. This Court, in WPA 2439 of 2025 on 18th March, 2025, decided a similar issue and held that, it is obligatory for the bank to forward all documents/data to the borrower for the borrower to give a meaningful response to the show-cause notice issued. An opportunity of hearing is also required to be given to the borrower in line with the judgment delivered by the Hon'ble Supreme Court in the matter of ***State Bank of India & Ors. –vs- Rajesh Agarwal & Ors.*** reported in ***(2023) 6 SCC 1.***

20. In view of the above, the show-cause notice and the steps taken in furtherance thereto appears to be contrary to the Master Directions on Fraud Risk Management, 2024 published by the Reserve Bank of India. The same are liable to be set aside and are, accordingly, set aside.

21. The bank is, however, permitted to take steps in the matter strictly in accordance with the Master Directions on Fraud Risk Management, 2024.

22. The writ petition stands disposed of.

23. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all the requisite formalities.

(Amrita Sinha, J.)