9th Sept.,2025

Item no.D/L 26
Court No. 14

Pradip, A.R.(Ct.)

In the High Court at Calcutta

Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 7972 of 2023**

In the matter of :

M/s. Moongipa Roadways & Ors.

.... Petitioners

VS.

Reserve Bank of India & Ors.

....Respondents

For the Petitioners:

Mr. Suddhasatva Banerjee
Mr. Vikas Baisya
Mr. Sourojit Dasgupta
Ms. Akanksha Mukherjee
Ms. Ranjana Seal

....Advocates

For the Respondent-Bank:

Mr. Anirban Pramanick
Mr. Punarbasu Nath

....Advocates

1. The petitioners are aggrieved by the steps taken by the Karnataka Bank Limited to classify the petitioners as willful defaulters.

2. The first and foremost challenge by the petitioners is that the notice dated 11th October, 2022 by which the bank intimated the petitioners about placing its name in the willful defaulters' list of Reserve Bank of India has not been issued from the branch of the bank where the petitioners made its transactions.

3. The petitioners have the bank account in the Kolkata-A.J.C. Bose Road branch of the Karnataka Bank but the notice has been issued by the Karnataka Bank Limited having its registered and head office at Mangaluru.

4. It has been argued that as there was no transaction with the Mangaluru branch, accordingly, no notice could have been issued by the said branch.

5. Each bank has to be taken as a separate entity and if there is any default, then the notice ought to have been issued from the branch where the transaction took place and not from any other branch.

6. In support of the said submission, the petitioners rely on the judgment delivered by the Division Bench of this Court in the matter of ***Oriental Bank of Commerce Vs. Santos Kumar Agarwal*** reported in ***AIR 2008 Cal 148***.

7. It has further been submitted that for the purpose of providing a proper response to the show cause notice issued by the bank, all the documents sought for by the petitioners ought to have been provided to the petitioners.

8. Petitioners in the reply to the show cause have clearly mentioned regarding the documents required for providing a meaningful response to the show cause. The said documents have not been provided despite request made.

9. In support of the submission that all documents ought to be provided to the petitioners, the petitioners rely on the judgment delivered by the Division Bench of the Bombay High Court in the matter of ***Milind Patel Vs. Union Bank of India & Ors.*** reported in ***(2024) 3 AIR Bom R 295***.

10. The next argument of the petitioners is that the personal hearing had been fixed by the bank at Mangaluru. As the entire cause of action arose within the jurisdiction of this

State, the petitioners ought not to have been summoned to Mangaluru for the purpose of the hearing.

11. It has been submitted that Clause 3(a) of the Master Circular on Willful Defaulters dated 1st July, 2015 published by the Reserve Bank of India has not been adhered to by the bank.

12. There is no evidence of willful default that has been brought on record. Prior to examining all documents by the Committee constituted in terms of the said Circular, the bank ought not to have declared the petitioners as willful defaulters.

13. Constitution of the Committee of Executives for Identification of Willful Defaulters which issued the impugned notice dated 11th October, 2022 is not in terms of Clause 3 (a) of the Master Circular.

14. The definition of 'lender' as appearing in Clause 2.1.1 in the Master Circular has been referred to. It has been pointed out that the definition 'lender' mentions about banking transactions in a bank.

15. In the instant case, the bank transactions took place in Kolkata but the impugned notice has been issued from the bank at Mangaluru, which according to the petitioner, is contrary to the Master Circular.

16. Prayer has been made to set aside the steps taken by the bank to declare the petitioners as Willful Defaulters.

17. Learned advocate representing the bank denies the submissions made by the petitioners and opposes the prayers made. It has been submitted that the

Committee has been constituted in accordance with the Master Circular published by the Reserve Bank of India. The notice by which the petitioners have been asked to appear for personal hearing was merely issued by the convener of the Committee which was constituted strictly in accordance with the Master Circular.

18. It has been submitted that the transactions took place within this State and the bank is agreeable to provide hearing to the petitioners in Kolkata.

19. It has further been submitted that the bank is yet to classify the petitioners as willful defaulters and there is a provision in Clause 3(b) of the Master Circular for placing the matter before the Review Committee for a final decision.

20. It has been contended that the notice has been issued from the registered and head office of the bank at Mangaluru and not from any other branch office of the bank.

21. Prayer has been made to direct the petitioners to participate in the process for identification of willful defaulters.

22. I have heard and considered the submissions made on behalf of the both the parties and have perused the materials place before the Court.

23. Admittedly, it appears that the petitioners have a bank account in Kolkata and the transactions took place in Kolkata. The notice of the Committee of Executives for Identification of Willful Defaulters appears to have been

issued from the registered and head office of the bank at Mangaluru. The same has not been issued by any other branch office of the bank, as alleged. The registered and head office of the bank cannot be treated as a mere branch office of the bank.

24. The petitioners have approached the Court at the stage when hearing was called for after response was given by the petitioners to the show cause notice issued by the bank. No order, far less a punitive measure, has been taken against the petitioners at the show cause stage. The Committee is yet to come to a decision as to whether the petitioners have actually willfully defaulted in making payment or not. No decision has been taken by the Identification Committee till date.

25. Mere issuance of a show cause notice does not give rise to a cause of action to file a writ petition to challenge the action of the bank to identify whether the borrower is a willful defaulter or not. After all, the bank is dealing with public money and the bank ought to protect its interest for the benefit of the public at large.

26. In Santos Kumar Agarwal (supra) the Court was considering the issue with regard to the jurisdiction for the purpose of filling a suit. Under such circumstances the Court was of the opinion that the Court did not have any jurisdiction over the subject matter of the suit as no part of the cause of action arose within the Original Side jurisdiction of this Court.

27. Paragraph 25 of the said judgment has been relied upon wherein the Court took note of the decision passed in the

matter of ***Delhi Cloth & General Mills Co. Ltd. Vs. Harnam Singh*** reported in ***(1955) 2 SCR 402*** wherein the Court took note of the fact that the bank operate through its branches and the branches are regarded for many purposes as separate and distinct entities from the head office and from each other.

28. In the instant case the head and registered office of the bank has taken steps in the matter. The same is not violative of any of the provisions of the Master Circular. Facts of the cited case do not fit into the facts of the instant case and, accordingly, has no manner of application herein.

29. In the matter of **Milind Patel** (supra) paragraphs 23, 25 &26 have been relied upon which speaks about complying the provisions of natural justice.

30. The bank, in the instant case, issued the show cause notice and afforded opportunity of hearing to the petitioners, which the petitioners did not avail and instead rushed to the writ Court for relief. It does not appear that there has been violation of the principle of natural justice.

31. The bank has agreed to provide the opportunity for hearing to the petitioners at Kolkata. The records of the petitioners are available at Kolkata. The petitioners have already replied to the show cause notice and have sought for certain documents. The bank shall provide the facility to the petitioners at Kolkata, if prayed for.

32. It will be open for the petitioners to participate in the hearing and seek for any further document(s), if required, for the purpose of defending its stand.

33. As per the Master Circular, the decision of the Identification Committee is subject to final approval by the Review Committee. The bank will be obliged to take steps strictly in terms of the Master Circular of the Reserve Bank of India.

34. The writ petition stands disposed of. The interim order passed on 3rd April, 2023 stands vacated.

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

(Amrita Sinha, J.)