

25.03.2025
sayandeep
Sl. No. 19
Ct. No. 28

WPA 26537 of 2024

Deepak Agarwal
Versus
The Branch Manager, SBI, Bakultala & ors.

Mr. Arnab Das
Ms. Syeda Romana Sultan
.....for the petitioner

Mr. Debasish Saha
Mr. Avirup Roy Sanyal
Ms. Sucheta Pal
..... for the SBI

Mr. Sailendra Tiwari
Mr. Sanbhu Mahato
Ms. Kuskan Jalan
..... for the respondent No. 2

The affidavit-of-service filed in Court today be kept on record.

The respondent Nos. 1 and 2 are represented.

Despite service, there is no representation on behalf of respondent Nos. 4 and 5.

This writ petition has been filed seeking interalia issuance of a writ of mandamus directing the respondent Nos. 1 and 2 being the Branch Managers of the State Bank of India and Punjab National Bank to adhere to the order dated October 5, 2024 passed by the learned District Judge at Alipore in Misc. appeal No. 372 of 2024 and not to allow any transaction in connection with the purported budget for the financial year 2024-2025 of DCWAOA in accordance with law. Learned Advocate appearing for the writ petitioner

submits that the writ petitioner is a member of Diamond City West Apartment Owners Association. It is submitted that being aggrieved by the illegal activities of the respondent Nos. 4 and 5 who are the office bearers of the respondent No. 3/Association, the writ petitioner instituted a suit being title suit No. 1691 of 2024 before the 5th Court of the learned Civil Judge (Junior Division), Alipore and prayed for an order of injunction restraining the respondent Nos. 3, 4 and 5 (who are arrayed as defendant Nos. 1,2 and 3 in the said suit) thereby injuncting the said respondents (defendants in the suit) from giving effect to the minutes of the meeting dated June 2, 2024 and to the unapproved budget for the financial year 2024-2025 of DCWAOA.

The learned Trial Court refused to grant *ad interim ex parte* injunction in favour of the writ petitioner. The writ petitioner carried the matter in appeal (being Misc. Appeal No. 372 of 2024) before the learned District Judge at Alipore. The appellate Court granted the prayer for *ad interim* injunction by an order dated October 5, 2024 thereby injuncting the respondent Nos. 4 and 5 herein from giving effect to the minutes of the meeting dated June 2, 2024 and the unapproved budget of the financial year of 2024-2025 of DCWAOA till December 3, 2024. It has been submitted that the said interim order of injunction has

been extended from time to time and is still subsisting. Learned Advocate for the writ petitioner submits that despite such order of injunction having been passed, the respondent Nos. 1 and 2 have, by acting at the behest of the respondent Nos. 4 and 5, permitted the respondent Nos. 4 and 5 to withdraw funds and the said respondents have thereby violated the order of injunction passed by the learned appellate Court in Misc. Appeal No. 372 of 2024. The writ petitioner seeks an order enforcing the order of injunction which was passed in the said Misc. Appeal. The writ petitioner further submits that since he is a member of the respondent No. 3, he is entitled to have copies of the statement of the Bank accounts of the Association maintained by the Association with the respective Banks.

Learned Advocates appearing for the Banks submit that the order of injunction was not passed against the respondent Banks. It has been submitted that the respondents Banks have not been arrayed as parties in the suit and as such the prayer made by the writ petitioner cannot be countenanced. Learned Advocates appearing for the Banks further submit that the Banks have a fiduciary relationship with their customers and it would not be permissible for the Banks to part with the statements of account of their

customers to a member of the Association without consent of the Association.

I have heard learned Advocates appearing for the respective parties. This Court of the view that this writ petition is not fit to be entertained. The primary grievance of the writ petitioner is the violation of the order of injunction passed by the learned Appellate Court on October 5, 2024 which got extended thereafter and is stated to be subsisting. Such grievance of the petitioner can be appropriately redressed by the same learned Court which passed the order of injunction in properly constituted proceedings under the Code of Civil Procedure.

Insofar as the grievance of the petitioner as regards non-furnishing of the statement of account is concerned, I find that there is no communication made by the writ petitioner to the Bank requesting for the statements of the relevant bank accounts of the Respondent Association. Without such request being first made by the petitioner to the Banks no prayer for the same can be made before this Court. It would be open to the petitioner to make a request to the Respondent Banks for the statement of accounts of the association and the Bank shall be wholly free to take a decision on the matter as to whether they would supply the same to the writ petitioner or not.

With the aforesaid observations, the writ petition being W.P.A. 26537 OF 2024 is disposed of without any order as to costs.

(Om Narayan Rai, J.)