

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA No. 25262 of 2025

Mahendra Kumar Gupta & Ors.

Versus

Canara Bank and Ors.

Mr. Jishnu Chowdhury, Sr. Adv.

Mr. Ishaan Saha

Mr. Tanay Agarwal

Mr. Shounak Mukhopadhyay

Mr. Shivam Bhimsaria

Mr. Chitresh Saraogi

Ms. Akansha Singhanian

.....For the petitioners.

Mr. Supriyo Ranjan Mahapatra

Ms. Kishwar Rahman

Mr. Vishesh Pandey

.....For the respondent nos. 1 to 4.

Hearing Concluded On : 16.02.2026

Judgment on : 18.03.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ petition challenging the orders passed by the respondents dated 28th October, 2024 and 30th August, 2025, declaring the petitioners as wilful defaulters.
2. The Branch-in-Charge of the Canara Bank, Bhubaneswar has issued a show cause notice dated 8th August, 2024 to the petitioners being the guarantors of the respondent no.6 calling upon the petitioners to show cause within 15 days from the date of receipt of the notice as to why the petitioners shall not be declared as wilful defaulters. The petitioner no.1 is also the Managing Director of the respondent no.6.
3. The petitioners have submitted reply on 24th August, 2024 to the show cause notice dated 8th August, 2024. In the show cause reply, the petitioners have informed the respondent no. 1 that the documents on the basis of which the opinion to identify an account as wilful defaulter was formed are not supplied to the petitioners.
4. On 13th September, 2024, the respondent no.1 issued a notice to the petitioners for personal hearing on 24th September, 2024. On receipt of the hearing notice, the petitioners have submitted reply on 21st September, 2024, informing the respondents that the respondents have not provided the documents to prepare for personal hearing.
5. On 25th September, 2024, the respondent bank again issued a notice to the petitioners requesting the petitioners to submit details such as latest Stock/ receivables Statement, present status and value of the

Primary Security, Audited Balance Sheet, tally backup of all projects and access to accounting software/ system to lenders/ lender agents. By a reply dated 5th October, 2024, the petitioners requested the respondent bank for extension of time to provide the details.

6. On 28th October, 2024, the respondent bank informed the petitioners that the Identification Committee has decided to classify the Company/ Borrowers / Guarantors/ Directors/ Partners/ Proprietors as wilful defaulters and has passed an order on 1st October, 2024. The extract of the order of the Identification Committee was also enclosed with the order dated 1st October, 2024.
7. The petitioners have preferred an appeal against the order of the Identification Committee dated 1st October, 2024 on 9th November, 2024. The Review Committee by an order dated 30th August, 2025, rejected the appeal filed by the petitioners and declared the Borrowers of the respondent no.6 and its Directors/ Guarantors as wilful defaulters.
8. Mr. Jishnu Chowdhury, Learned Senior Advocate representing the petitioners submits that no documents with the show cause notice were served upon the petitioners. In the show cause reply, the petitioners have categorically mentioned that unless and until the documents are not served upon the petitioners, the petitioners will not be in a position to give a proper reply but inspite of the same, the respondents have not served the documents relied upon in the show cause notice.

- 9.** Mr. Chowdhury submits that the formation of opinion by declaring wilful defaulter is doubtful. He submits that before taking a decision by the Identification Committee, the petitioners have submitted detailed reply and in the reply, it was categorically mentioned that no documents were supplied which have been relied upon in the show cause notice and requested for supply of documents but in the order of the Identification Committee, there is no discussion about the supply of documents as requested by the petitioners. He further submits that the order of Identification Committee is without any reasons and have not given any finding as to why the reply submitted by the petitioners is not accepted.
- 10.** Mr. Chowdhury submits that in reply to the personal hearing notice, the petitioners have again requested for supply of documents but the respondents have not taken any decision for supply of documents.
- 11.** The Review Committee rejected the appeal preferred by the petitioners but the Review Committee also not given any reasons for rejection of the appeal preferred by the petitioners and have also not considered the grievances of the petitioners for supply of documents.
- 12.** Mr. Supriyo Ranjan Mahapatra, Learned Advocate representing the bank raised the point of maintainability of the writ petition on the ground of jurisdiction. He submits that none of the cause of action arose at Kolkata. He submits that the petitioners being the guarantors are residing at Bhubaneswar. The office of the bank is also at

Bhubaneswar. The Company is the borrower. Company is under liquidation and Interim Resolution Professional is appointed by the National Company Law Tribunal.

13. In support of his submissions, he has relied upon the judgment in the case of ***Kusum Ingots and Alloys Ltd. Vs. Union of India and Another*** reported in **(2004) 6 SCC 254** and submits that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit.
14. Mr. Mahapatra has relied upon the judgment in the case of ***The State of Goa Vs. Summit Online Trade Solutions (P) Ltd. and Ors.*** reported in **2023 LiveLaw (SC) 184** and submits that determining the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of the Article 226 of the Constitution of India, would necessarily involve an exercise by the High Court to ascertain the facts, as pleaded, constitute a material, essential or integral part of the cause of action.
15. Mr. Mahapatra has relied upon the judgment in the case of ***Pintu Mohanta Vs. The Union of India & Ors.*** reported in **MANU/WB/0814/2019** and submits that in order to maintain a writ petition, the petitioner has to establish that a legal right claimed by him

has been infringed by the respondent within the territorial limit of the Court's jurisdiction.

16. Mr. Mahapatra further relied upon the judgment in the case of ***Trustcap Private Limited Vs. Income Tax Officer Ward 2(1), Kolkata*** passed by the Hon'ble Division Bench of the Bombay High Court in ***Writ Petition No. 742 of 2025*** and submits that it is obligatory on the part of the Court to see the convenience of all the parties. The convenience would include the existence of a more appropriate forum, expenses involved, the law relating to lis, verification of specific facts which are necessary for just adjudication of controversy and other ancillary aspects.
17. The petitioners are the guarantors of the respondent no.6 company. The petitioner no.1 is also a Managing Director of the respondent no.6 company. The registered address of the company is at Kolkata. It is the specific case of the petitioners that all the correspondences were made by the respondent bank with the petitioners through the registered address of the company of the respondent no.6.
18. In all notices including the show cause notices sent to the borrower is mentioned as "M/s Gupta Power Infrastructure Limited, Managing Director, Sri Mahendra Kumar Gupta (MD), Regd. Address: EN-62, Sector-V, 7th Floor, Salt Lake City, Kolkata-700091, West Bengal". Even if it is taken into consideration that the registered address of the petitioners being the guarantors is at Bhubaneswar but the petitioner

no.1 is not only the guarantor but also the Managing Director of the company and admittedly the registered address of the company is at Kolkata and notices have been served upon the petitioner no.1 is at Kolkata as Managing Director of the company.

19. In order to maintain writ petition, the petitioner has to establish that within the territorial limits of the Court's jurisdiction *prima facie* legal right claimed by him has been either infringed or is threatened to be infringed by the respondents. Accordingly, when the impugned act of the respondents takes effect within the territorial jurisdiction of a particular High Court, it may entertain the writ petition of the person aggrieved notwithstanding that the respondents have the offices or residences outside its territorial jurisdiction.
20. In the case in hand, the addresses of the petitioners are at Bhubaneswar but the petitioner no. 1 is also a Managing Director of the company. The registered address of the company is at Kolkata. All notices including show cause notices and the order of wilful defaulter is served upon the petitioner no.1 at the registered address of the company at Kolkata. It is also the specific case of the petitioners that all notices including show cause notices and the order of wilful defaulter served upon the petitioners through the company, thus this Court finds that part cause of action arose within the jurisdiction of this Court.
21. The judgments relied by the respondent, are settled position of law but the same are distinguishable from the facts and circumstances of the

present case. In view of the above, the writ petition is maintainable before this Court.

- 22.** The petitioners have challenged the order passed by the respondent bank by declaring the petitioners as wilful defaulters on the ground that immediately after receipt of show cause notice, the petitioners in their reply categorically submitted that the bank has not supplied the documents which the bank has relied upon in the show cause notice. On receipt of reply to the show cause notice, by a communication dated 28th October, 2024, it was informed to the petitioners that the Identification Committee has decided to classify the company including borrowers/ guarantors/ directors/ partners and proprietor as wilful defaulters but in the said notice and the order of the Identification Committee, there is no finding whether the respondent bank has considered that the documents which the petitioners have requested for supply of the same are necessary to supply the same or not.
- 23.** The Identification Committee has taken decision on 1st October, 2024 which was communicated to the petitioners on 28th October, 2024 but the Identification Committee has not given any reasons as to why the petitioners have been declared as wilful defaulters. The petitioners have preferred a review of the order of the Identification Committee but the Review Committee has also not considered the grievances of the petitioners whether the documents which the petitioners have prayed for, are essential to give reply to the show cause notice and the order of the Review Committee is also with any reason.

- 24.** This Court finds that the respondent bank has not considered the request of the petitioners for supply of the documents which the respondent bank has relied upon while issuance of show cause notices upon the petitioners and the decision of the Identification Committee as well as the Review Committee are without any reasons, thus the decision taken by the Identification Committee dated 1st October, 2024 and the order of the Review Committee dated 23rd July, 2025, are set aside and quashed.
- 25.** The respondent bank is directed to supply the documents which the bank has relied upon while issuance of show cause notice to the petitioners within a period of two weeks from the date of receipt of the copy of this order. It is made clear that if the documents are voluminous, the respondent bank shall allow the petitioners to inspect the documents within two weeks and the petitioners shall complete the inspection within two weeks thereafter.
- 26.** On receipt or completion of inspection of documents, within three weeks the petitioners shall be at liberty to file their supplementary reply to the show cause notice, if any, and on receipt of the supplementary reply, if any, the respondent bank shall take decision within three weeks thereafter.
- 27. W.P.A. No. 25262 of 2025 is disposed of.**

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)