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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5921/2024 & CM APPLs. 24607/2024, 24608/2024 &
24609/2024

MR VAIBHAV BHARANA Petitioner

Through: Mr. Dayan Krishnan, Senior
Advocate with Ms. Prachi, Ms. Divya
Verma, Mr. Bhanukaran Singh Jodha
and Mr. Sukrit Seth, Advocates.
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versus

RESERVE BANK OF INDIA & ORS. Respondents

Through: None.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
29.04.2024

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CM APPL. 24608/2024 (for exemption)

1. Exemption allowed, subject to just exceptions.
2. Application is disposed of.

CM APPL. 24609/2024 (to file lengthy synopsis and list of dates)

3. The present application has been filed under Section 151 of Code of Civil Procedure, 1908 ("CPC") seeking permission to file lengthy list of dates and synopsis.
4. Considering the submissions made in the present application, the present application is allowed and the same is disposed of.



W.P.(C) 5921/2024 & CM APPLs. 24607/2024

5. The present petition has been filed for directions to quash the decision of the respondent no. 2 i.e., ICICI Bank Ltd., wherein the petitioner has been purportedly declared as a ‘*Willful Defaulter*’.

6. Learned Senior Counsel appearing for the petitioner, submits that the aforesaid action of the respondent no. 2 /ICICI Bank, is in contravention of the RBI Master Circular on Willful Defaulter dated 01st July, 2015 and against the settled position of law as laid down by Supreme Court in the judgment of ***State Bank of India vs. Jah Developers Private Limited and Ors., (2019) 6 SCC 787.***

7. Learned counsel appearing for the petitioner submits that the petitioner is an Ex-Director of Headway Buildcon Private Limited (“company”). He submits that the petitioner had resigned as Director of the said company on 29th December, 2014. He further submits that the account of the company was declared as Non-Performing Asset (“NPA”) on 28th September, 2017. He further submits that in the meanwhile, there was also a re-structuring agreement between the parties dated 26th June, 2015.

8. He submits that despite the fact that the allegations, on the basis of which, the account of the petitioner has been declared as ‘*Willful Defaulter*’, is of the year 2014, the Show Cause Notice in that regard, came to be issued only on 05th August, 2023. Thus, he submits that there has been a grave delay between the date to which the allegation pertains, i.e., the year 2014 and the date of the Show Cause Notice in the year 2023; and on that ground alone, the impugned order passed by the respondent no. 2/ICICI Bank, is liable to set aside.

9. Learned Senior Counsel appearing for the petitioner further draws the



attention of this Court to the reply dated 23rd August, 2023 issued by the respondent, in response to the Show Cause Notice dated 05th August, 2023. He submits that after receipt of the aforesaid order, a Communication dated 10th April, 2024, which is the impugned communication, has been received from the respondent no. 2/ICICI Bank, wherein the account of the petitioner has been declared as ‘*Willful Defaulter*’.

10. He submits that no procedure as laid down in the case of ***Jah Developers (supra)***, has been followed. He submits that as per the laid procedure, the Identification Committee of the respondent was required to issue an order and 15 days was required to be given to the petitioner for filing a representation. After receipt of the representation and consideration of the same by the Willful Defaulters Review Committee, final order had to be passed. He submits that no such procedure has been followed and there is neither any order passed by the Identification Committee, nor by any Review Committee.

11. Issue notice to the respondents by all modes.

12. Let reply be filed within a period of four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

13. Considering the submissions made before this Court, the operation and effect of the impugned Communication dated 10th April, 2024, issued by respondent no. 2/ICICI Bank, shall remain stayed till the next date of hearing.

14. List on 24th September, 2024.

MINI PUSHKARNA, J

APRIL 29, 2024/c