

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 3997 of 2024**

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AMIT DINESHCHANDRA PATEL & ORS.

Versus

PUNJAB NATIONAL BANK & ORS.

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Appearance:

MR MIHIR JOSHI SENIOR COUNSEL WITH ARJUN R SHETH(7589) for the
Petitioner(s) No. 1,2,3,4

AMIRAJ R BAROT(8575) for the Respondent(s) No. 3

DHRUVKUMAR S CHAUHAN(8138) for the Respondent(s) No. 1

MR VISHWAS K SHAH(5364) for the Respondent(s) No. 5

NOTICE NOT RECD BACK for the Respondent(s) No. 8

NOTICE SERVED for the Respondent(s) No. 6,7,9

NOTICE UNSERVED for the Respondent(s) No. 4

VIVAN T SHAH(7947) for the Respondent(s) No. 2

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**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK****Date : 26/04/2024****ORAL ORDER**

Draft amendment is allowed. Amendment to be carried out forthwith and learned Counsel for the petitioner shall supply the amended copy to the registry.

Mr. Mihir Joshi, learned Senior Counsel for the petitioners has submitted that there was no due of the concerned bank and even there was no accounts of the petitioners with the respondent bank however, impugned order came to be passed by the respondent bank.

This Court while issuing notice on 11.3.2024 had also issued notice as to interim relief and made it returnable today. However, in the *meantime*, the respondent bank has passed final order on 22.4.2024 without stating any reason. Relevant part of the said order reads as under:-

*"Accordingly, Bank has decided to classify your loan account as "Fraud" for the following reasons.
I. Misappropriation and criminal breach of the trust.
II. Diversion of Funds"*

Further, in the decision of this Court in Special Civil Application No.503 of 1997 the Court has observed as under:-

"The chain of events that has taken place as disclosed in the Order under appeal leaves no room for any other conclusion then that the appellant-Defendant acted in a manner to over reach the decision of the Court in the matter subjudice before it and to infractuate whole proceedings by his own act. It is not a case where defendant has exercised his right under the Contract, before filing of the suit nor it is a case where he has exercised such right before notice of application has been served upon him. The fact that law does not favour ad-interim ex-parte order and requires that orders are made in the presence of the parties does implicitly call restraint from the parties after they are apprised of respective case and the materials, inviting attention of the Court on application for interim relief from indulging into any into proceedings getting confidence of the people Institution of Court administration of justice. as to desist such activities which results infructuous and erodes the in the basic efficacy of the an effective tool of

administration of justice."

In view of the above circumstances, the matter requires consideration.

RULE. The execution and implementation of the impugned order dated 22.4.2024 passed by the respondent bank is hereby stayed till final disposal of the petition.

Mr. Vishawas K. Shah, learned Counsel for the respondent No.5, Mr. Dhruv Chauhan, learned Counsel for the respondent No.6 and Mr. Amiraj Barot, learned Counsel for the respondent No.3 have submitted that they will file *affidavit-in-reply* on behalf of the concerned respondents in the registry.

Registry to accept the *affidavit-in-reply* filed by learned advocates on behalf of the concerned respondents and replace the same in the file.

(HEMANT M. PRACHCHAK,J)

SURESH SOLANKI