

Kolkata High Court (Appellate Side)
22699W/2014 on 19 August, 2014
Author: Nadira Patherya

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19.08.2014

W.P.NO. 22699 (W) of 2014

Mr. Kishore Dutta
Mr. Debasis Ghosh
Mr. Ravi Kumar Dubey
... for the petitioner

Mr. Ratan Das
... for the respondent no. 8.

Mr. Sandip Pal Chowdhuri ... for the respondent no. 5.

Mr. Subrata Kumar Sinha .. for the respondent nos. 1,2 &9.

By this writ petition, the petitioner seeks cancellation of letter dated 14th May, 2014 and circular dated 13th May, 2014 so also the steps taken thereunder.

The case of the petitioner is that she was an empanelled valuer of the State Bank of India till she was depanelled. Being a valuer, she was entrusted with valuing property in 2011 by the respondent Bank. On completion of valuation, valuation report was submitted and in 2012 the respondent bank alleged that the valuation report had been filed on the basis of manufactured document and explanation was sought from the petitioner regarding her empanelment to which reply was given and it was categorically stated that she being an engineer valuer had no legal right to verify any document or title deeds. On a query regarding her depanelment, she was informed on 14th May, 2014 that she had been depanelled and the name had been deleted from the empanelled list. The consequence of the said decision of the respondent bank is far reaching as will appear from the letter dated 12th June, 2014 whereby the Federal Bank has also blacklisted the petitioner pursuant to circular dated 13th May, 2014. As the petitioner is a valuer and has no legal training nor can she decipher legal document, the communication dated 14th May, 2014 is bad in law and be cancelled so also circular dated 13th May, 2014 and steps taken thereunder.

Counsel for the respondent bank submits that the petitioner has submitted a valuation report after undertaking a physical verification of the properties, the properties were found in existence and also in possession of the owner. Therefore, it was a duty cast on the petitioner to ascertain the document on the basis of which valuation was to be undertaken. For not having done so, there has been dereliction of duty on the part of the petitioner and the decision of the respondent bank therefore is justified and this application warrants no order.

Having considered the submissions of the parties, the petitioner was an empanelled valuer of the respondent bank till 14th May, 2014. From time to time she was entrusted with valuing properties and one such valuation was to be made by her in 2011. A valuation report was also submitted by her and in the said valuation report she had categorically mentioned that legal matters were not verified. If this be true, then to depanel the petitioner on the ground that she had not inspected the documents on the basis of which the valuation report had been prepared would not be correct. The job of a valuer is to value a property. A valuer is not expected to read title deeds as a legally trained person. Therefore, to expect of a valuer to detect forged document or a manufactured document would be to expect a valuer to be a legally trained person. A valuer and a legally trained person cannot be equated. Both are specialized in their own fields but both have been treated as one in the instant case and the reason for doing so to cover a lapse on the part of the Chief Manager of the concerned branch of the respondent bank. The reason for which the petitioner has been depanelled is the job of a Law Officer or a legal officer. One is not aware whether the said post exists in a Branch office. If such post exists, then the legal document is to be securitized by the Law Officer and if no post exists, then it is for the Chief Manager to consider the document. But certainly it is not the job of a valuer. By letter dated 7th August, 2012 a show cause was issued to the petitioner and a reply has also been given on 13th August, 2012. There is no reasoned order passed depaneling the petitioner by the respondent bank. There is also no communication of such order to the petitioner. It is only in reply to the letter dated 21st April, 2014, that the petitioner was informed by communication dated 14th May, 2014 that she had been depanelled as she had furnished a valuation report based on fake documents. This can be no reason to depanel a valuer and as discussed earlier, the depanelment of the petitioner is a ploy to cover the lapse on the part of the Chief Manager of the concerned Branch. The decision of the bank is to have far-reaching effect as intimation of the depanelment has been intimated by the respondent bank to the Indian Bank Association as per requirement of circular dated 13th May, 2014 and the consequence thereof is that all other banks with whom the petitioner has been empanelled have also to take steps to depanel her as per the requirement of the said Circular. This is evident from the communication dated 12th June, 2014. This is only one of the instances of what is to follow. Therefore, the respondent bank ought to have taken a considered decision before taking such a drastic step against the petitioner which will affect her right to life and livelihood guaranteed under Article 21 of the Constitution of India. Accordingly, as there exists no nexus between the decision taken by the respondent bank and the task entrusted to the petitioner, the depanelment of the petitioner cannot be sustained in the eye of law and is, accordingly, set aside.

The communication dated 14th May, 2014 so also dated 12th June, 2014 as a natural consequence thereof are also set aside.

In view of the aforesaid, this application is disposed of. This order has been passed this day as Counsel for the respondent bank has expressed his intent not to file an affidavit-in-opposition Certified copy of this order, if applied for, be given to the parties as early as possible.

(Patherya, J)