

ITEM NO.75 **Revised*** COURT NO.2 SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).17407/2022

(Arising out of impugned final judgment and order dated 22-09-2022 in WP No. 11300/2022 passed by the High Court of Judicature at Bombay)

RESERVE BANK OF INDIA **Petitioner(s)**

VERSUS

RUPEE CO-OP BANK LTD & ORS. **Respondent(s)**

(FOR ADMISSION and I.R. and IA No.147490/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 30-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) **Mr. Tushar Mehta, SG**
Mr. S. S. Shroff, AOR

For Respondent(s) **Mr. Chinmoy Khaladkar, Adv.**
Mr. Abhinav Agnihotri, Adv.
Ms. Salonee Pranjape, Adv.
Mr. B. K. Pal, AOR

Mr. Avinash Phatangare, Adv.
Mr. Uday B. Dube, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1 The licence of the first respondent to carry on business under Section 22 of the Banking Regulation Act, 1949 was cancelled by the Reserve Bank of India¹ on 8 August 2022. The order of cancellation was impugned in appeal before the appellate authority on 31 August 2022. By an order dated 19 September 2022, the appellate authority declined to grant a stay of the operation of the order of

1 "RBI"

cancellation. The High Court, by its impugned order dated 22 September 2022, however, suspended the operation of the order dated 8 August 2022 pending the disposal of the appeal before the appellate authority coupled with a direction that the appeal shall be disposed of "positively on 17 October 2022 in accordance with law".

- 2 Mr Tushar Mehta, Solicitor General, has questioned the correctness of the order of the High Court on the ground that the only reason which weighed with the High Court recording that unless the order is suspended until the disposal of the statutory appeal, the appeal would be rendered infructuous, is erroneous. The Solicitor General submitted that the order of the RBI cancelling the licence indicates that the NPAs of the first respondent are as high as 98.44% as on 31 March 2021. Hence, it was urged that there was no justification for the High Court to stay the operation of the order of the RBI cancelling the licence.
- 3 On the other hand, counsel appearing on behalf of the first respondent, submitted that an order of stay enures to the benefit of the first respondent since 12 September 2017. In terms of that order, the High Court had directed that in the event that the order of the RBI is adverse to the first respondent and the Board of Administrators, it shall not be implemented for a period of six weeks. Hence, it has been submitted that since this order continued to operate until the order of cancellation dated 8 August 2022, the order of the High Court need not be interfered with.
- 4 During the course of the hearing, the Court has been apprised of a notice dated 26 September 2022 issued by the appellate authority preponing the date of the hearing of the appeal to 4 October 2022. Counsel for the first respondent has, however, submitted that he has received a communication during the course of the day that perhaps the notice dated 26 September 2022 listing the

proceedings on 4 October 2022 has been withdrawn and the appeal would be heard on the original date of listing, namely, 17 October 2022.

- 5 Having due regard to the fact that the appeal is now likely to be heard on 17 October 2022, it is not necessary for this Court to enquire into the wider issue in regard to the correctness of the order of the High Court which is kept open to be decided in an appropriate proceeding.
- 6 Counsel appearing on behalf of the first respondent has also submitted that since 2013 the Board of Administrators is incharge of the bank and the bank has been restrained from accepting any deposit or doing banking transactions save and except to pursue recoveries.
- 7 The High Court has not, *prima facie*, while disposing of the writ petition found any fault in the order of the RBI cancelling the licence or in the order of the appellate authority declining to stay the order of cancellation. Hence, there is substance in the grievance of the Solicitor General that in this view of the matter the only ground which weighed with the High Court in staying the cancellation would not reflect a correct position in law. However, there are other aspects which need to be borne in mind in the present case as noted above on the basis of which we are inclined to continue the order of stay in the facts and circumstances of the present case, until 31 October 2022.
- 8 In the above view of the matter, we pass the following order:
- (i) The appellate authority under Section 22(5) of the Banking Regulation Act 1949 shall take up the appeal for final disposal on 17 October 2022 and complete the disposal of the appeal on or before 31 October 2022;

- (ii) The order of stay which was granted by the High Court shall stand restricted to the period up to and inclusive of 31 October 2022.

9 The Special Leave Petition is disposed of in the above terms.

10 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR
(*Revised for appearance only)

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

ITEM NO.75

COURT NO.2

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