

Canara Bank Thru. Chief Manager Shri ... vs Union Of India Thru. Secy. Ministry Of ... on 27 March, 2025

Author: Pankaj Bhatia

Bench: Pankaj Bhatia

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:17637

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 1610 of 2025

Petitioner :- Canara Bank Thru. Chief Manager Shri Kunwar Amogh

Respondent :- Union Of India Thru. Secy. Ministry Of Financial Service Jeevan Deep New D

Counsel for Petitioner :- Alok Saxena,Paras Pradhan

Counsel for Respondent :- A.S.G.I.

Hon'ble Pankaj Bhatia,J.

1. Heard the counsel for the petitioner and Sri Ashwani Kumar Singh who appears for the opposite party no.1.

2. The present petition has been filed challenging the order dated 27.02.2025 passed by the DRT, Chhattishgarh having additional charge of the DRT at Allahabad in SA No.708 of 2024. Further prayers have been made with regard to direction permitting the petitioner to confirm the auction sale conducted on 28.02.2025 and further directions have been sought for decision of S.A. No.708 of 2024.

3. The facts, in brief, are that the respondents no. 3, 4 & 5 were granted a loan by the petitioner bank having its premises at Gorakhpur through their Bank Road Branch and equitable mortgage of the property situate at Gorakhpur was done in favour of the petitioner. It appears that the said borrowers failed to adhere to the financial discipline, as such, a demand notice was sent under section 13(2) of the SARFAESI Act on 22.05.2024 at Gorakhpur. It also bears from the record that the loan, which was sanctioned and granted by the petitioner bank at Gorakhpur, was subsequently transferred for the purpose of recovery to the Asset Recovery Management Branch, situate at Lucknow. Subsequently, an order came to be passed by the DRT at Allahabad on 27.02.2025. The said order is under challenge.

4. Arguing on the question of the jurisdiction of the Lucknow Bench, the counsel for the petitioner argues that the part of cause of action has arisen at Lucknow inasmuch as the notice under section 13(2) of the Act was issued by the Asset Recovery Management Branch Lucknow and thus, this court sitting at Lucknow would have jurisdiction. It is pleaded specifically in para 7 of the petition that the loan granted by the petitioner's Branch at Gorakhpur was migrated to the Asset Recovery Management Branch Lucknow.

5. To buttress his submission that part of cause of action has arisen at Lucknow because the notice under section 13(2) was issued by the Asset Recovery Management Branch at Lucknow, merits rejection. The petitioner has placed reliance on the judgment of the Supreme Court in the case of Sri Nasiruddin vs. State Transport Appellate Tribunal; (1975) 2 SCC 671 and specific reliance is placed on para 25 and 38 of the said judgment, which are quoted herein below :

25. Though the Lucknow Bench can exercise jurisdiction under Articles 226, 227 and 228, there is limitation on such jurisdiction as far as the Lucknow Bench is concerned. The Lucknow Bench will have jurisdiction under Articles 226 only in cases where the right of the petitioner arose first within the Oudh areas. Where an original order passed outside the Oudh areas has been reversed or modified or confirmed at a place within the Oudh areas it is not the place where the ultimate or the appellate order is passed that will attract jurisdiction of the Lucknow Bench. In most cases where an appeal or revision will lie to the State Government, the order will be made at Lucknow. In all the such cases, if it be held that the place where a case can be said to arise is where the ultimate or appellate order is passed by the authority, the Judges at Lucknow would then have jurisdiction even though the controversy originally arose and the original order was made by an authority outside the specified Oudh areas. In all cases a writ petition filed in the High Court would be a case arising at Lucknow. It is on this reasoning that the High Court strictly confined the jurisdiction of the Lucknow Bench under Articles 226 to the right which the petitioner pursues throughout the original proceedings, the appellate proceedings and thereafter in the High Court. The right of the petitioner is the right which first arose and if the place where the right first arose will be within the Oudh areas then the Lucknow Bench will have jurisdiction.

38. To sum up. Our conclusions are as follows. First there is no permanent seat of the High Court at Allahabad. The seats at Allahabad and at Lucknow may be changed in accordance with the provisions of the order. Second, the Chief Justice of the High Court has no power to increase or decrease the areas in Oudh from time to time. The areas in Oudh have been determined once by the Chief Justice and, therefore, there is no scope for changing the areas. Third the Chief Justice has power under the second proviso to paragraph 14 of the order to direct in his discretion that any case or class of cases arising in Oudh areas shall be heard at Allahabad. Any case or class of cases are those which are instituted at Lucknow. The interpretation given by the High Court that the word "heard" confers powers on the Chief Justice to order that any case or class of cases arising in Oudh areas shall be instituted or filed at Allahabad, instead of Lucknow is wrong. The word "heard" means that cases which have already been instituted or filed at Lucknow may in the discretion of the Chief Justice under the second proviso to paragraph 14 of the order be directed to be heard at Allahabad. Fourth, the expression "cause of action" with regard to a civil matter means that it should be left to the litigant to institute cases at Lucknow Bench or at Allahabad Bench according to the cause of action arising wholly or in part within either of the areas. If the cause of action arises wholly within Oudh areas then the Lucknow Bench will have jurisdiction. Similarly, if the cause of action arises wholly outside the specified areas in Oudh then Allahabad will have jurisdiction. If the cause of action in part arises in the specified Oudh areas and part of the cause of action arises outside the specified areas, it will be open to the litigant to frame the case appropriately to attract the jurisdiction either at Lucknow or at Allahabad. Fifth, a criminal case arises where the offence has been committed or otherwise as provided in the Criminal Procedure Code. That will attract the jurisdiction of the Court at Allahabad or Lucknow. In some cases depending on the facts and the provision regarding jurisdiction, it may arise in either place.

6. Reliance is also placed upon the Single Judge Judgment of this court in the case of M/s Ramom Motion Auto Corporation Pvt. Ltd. vs. DRAT decided on 13.06.2022 in the matters under Article 227 No.2135 of 2022 in which case the initial loan was taken at Lucknow, however, subsequent order was passed by the DRAT sitting at Allahabad. Objection raised with regard to jurisdiction of the Lucknow Bench was repelled and it was held that the part of cause of action had arisen at Lucknow and thus, this court sitting at Lucknow had the jurisdiction to entertain the writ petition. While doing so, the case of Sri Nasiruddin (supra) and Manish Kumar Mishra vs. Union of India; 2020 SCC Online All 535 was also noticed. This court held that as the substantial part of the cause of action had arisen at Lucknow, the loan was granted at Lucknow and thus, the writ petition would lie at Lucknow. The Court also noticed that the Asset Recovery Management Branch is not a separate juristic person and is not a legal entity distinct from the Bank.

7. Admittedly, the alleged default took place at Gorakhpur, the property was mortgaged at Gorakhpur, thus, a petition would not lie at Lucknow.

8. Following the said two judgments, I have no hesitation in holding that merely because the Asset Recovery Management Branch was looking after the recovery part of outstanding loan and was situate at Lucknow and had issued notices under section 13(2) from Lucknow, this court would get jurisdiction to entertain the petition. Even otherwise, the orders passed by the DRT are appellable under the SARFAESI Act before the DRAT.

9. Thus, on both the said grounds, the writ petition cannot be entertained and is dismissed accordingly.

Order Date :- 27.3.2025 VNP/-