

ITEM NO.8

COURT NO.1

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 4092/2024

(Arising out of impugned final judgment and order dated 12-12-2023 in WRITC No. 26869/2023 passed by the High Court of Judicature at Allahabad)

M/S SIMBHAOLI SUGARS LIMITED

Petitioner(s)

VERSUS

STATE BANK OF INDIA & ORS.

Respondent(s)

(IA No.39013/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.39014/2024-PERMISSION TO FILE LENGTHY LIST OF DATES and IA No.39012/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 18-03-2024 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Shikhil Suri, Sr. Adv.
Mr. Mahesh Agarwal,, Adv.
Mr. Rishi Agrawala,, Adv.
Mr. Ankur Saigal, Adv.
Mr. Shivam Shukla, Adv.
Mr. E. C. Agrawala, AOR

For Respondent(s) Mr. Tushar Mehta, Solicitor General
Mr. Sanjay Kapur, AOR
Ms. Divya Singh Pundir, Adv.
Ms. Mahima Kapur, Adv.
Mr. Devesh Dubey, Adv.
Mr. Arjun Bhatia, Adv.

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

- 1 These proceedings under Article 136 of the Constitution arise from an order dated 12 December 2023 of a Division Bench of the High Court of Judicature at Allahabad.

- 2 The petitioner, which runs a Sugar mill at Simbhaoli in Uttar Pradesh, defaulted in the payment of loans since 2003 resulting in Debt Restructuring Agreements with the State Bank of India (SBI) and other banks from time to time. The SBI is the lead banker of a consortium of banks. Loans were provided through the consortium by the Joint Lender Forums (JLF). The account was declared as a non-performing asset on 24 December 2012.
- 3 A proposal which was submitted by the petitioner for a debt settlement. The first respondent by its communication dated 26 July 2023 rejected the offer.
- 4 The first respondent, in turn, has moved an application under Section 7 of the Insolvency and Bankruptcy Code (IBC) before the National Company Law Tribunal (NCLT).
- 5 The petitioner instituted a Writ Petition before the High Court of Judicature at Allahabad under Article 226 of the Constitution. The reliefs which were sought in the Writ Petition were for :
 - (i) Quashing the communication dated 26 July 2023 issued by the first respondent;
 - (ii) A direction to the first respondent to convene a meeting of the JLF in order to finalise settlement proceedings in accordance with a circular of the Reserve Bank of India dated 7 June 2019; and
 - (iii) Quashing the proceedings registered at the behest of the first respondent

before the NCLT under Section 7 of the IBC.

6 The High Court dismissed the petition by its impugned judgment and order. However, while dismissing the petition, the High Court has held that the officials of the bank had failed to abide by the circular of the Reserve Bank of India (RBI) dated 01 July 2009 pertaining to the classification and reporting of frauds. Hence, CBI was directed to investigate “against each and every bank” on how loans were sanctioned in contravention of the RBI guidelines and circulars.

8 That is how the matter has travelled to this Court.

9 We have heard Mr Mukul Rohatgi, senior counsel appearing on behalf of the petitioner and Mr Tushar Mehta, Solicitor General appearing on behalf of the first respondent.

10 The High Court has furnished adequate reasons for declining to grant the relief as sought in the Writ Petition. The Unit of the petitioner has consistently been in default. The decision of the SBI to reject the offer of a One Time Settlement could not be faulted. Moreover, the other reliefs which were sought in the Writ Petition including for convening a meeting of the JLF to finalise the settlement were equally misconceived. The High Court was also justified in declining to interdict the proceedings before the NCLT initiated by the first respondent under Section 7 of the IBC. That part of the order of the High Court is unexceptionable.

11 Having so held, however, the High Court was, in our view, in error in directing an investigation by the CBI. Such a direction was not warranted, particularly, bearing in mind that no such relief was sought or formed the subject matter of

the proceedings under Article 226 of the Constitution.

- 12 The Solicitor General has also joined in submitting that the direction for investigation by the Central Bureau of Investigation would not appear to be appropriate.
- 13 Hence, we set aside the direction which has been issued by the High Court to the CBI to take up the investigation. However, while doing so, we clarify that this will not preclude either the RBI or any appropriate authority, from taking recourse to the provisions of law as are otherwise available including for the purpose of investigating into any alleged acts of misdemeanour or fraud.
- 14 We clarify that the above observations are confined to the controversy before this Court and shall not amount to any expression of opinion in the pending proceedings before the National Company Law Tribunal instituted by the first respondent.
- 15 The Special Leave Petition is accordingly disposed of.
- 16 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR