

Constitutional Writ

Present : The Hon'ble Mr Justice Jayanta Kumar Biswas

Judgment on : August 20, 2010

W.P.No.16573(W) of 2010

Shamshad Islam & Anr.

-vs-

HDFC Bank Limited

Points:

Maintainability of Writ- Whether writ is maintainable against Bank-
Constitution of India-Article 226

Facts:

The petitioners in this art.226 petition are seeking direction upon the respondent to disburse and deposit the amount of Rs.50,000/- (Rupees Fifty Thousand) only to the petitioner's savings account wherefrom the said amount has been taken away or withdrawn by the respondent Bank without consent or permission of the depositor, the petitioner No.1.

Held:

The sole respondent in the petition is one HDFC Bank Limited. It is a private bank and not a State within the meaning of art.12 of the Constitution of India. With the private disputes between the parties the petitioners are not entitled to approach the High Court under art.226 seeking public law remedy. Their remedy, if any, was before the Civil Court or any other forum, if there is one according to the existing law. Paras 2 & 3

Mr. Samir Kumar Dhar for the petitioners

Mr. Amitava Mitra ...for the Bank

The Court : The petitioners in this art.226 petition dated August 3, 2010 are seeking the following principal relief :

“(a) To issue rule calling upon the respondent to show cause as to why a writ of and/or in the nature of Mandamus should not be issued commanding the respondent to disburse and deposit the amount of Rs.50,000/- (Rupees Fifty Thousand) only to the petitioner’s savings account No.00141000156502 being mentioned by Branch Office of Respondent Bank at 2/6, Sara Bose Road, ‘Central Plaza’, Kolkata – 700020, wherefrom the said amount has been taken away or withdrawn by the respondent Bank without consent or permission of the depositor, the petitioner No.1.”

2. The sole respondent in the petition is one HDFC Bank Limited. It is a private bank and not a State within the meaning of art.12 of the Constitution of India. Pointing out this counsel for the respondent has said that the petition is not maintainable.

3. In my opinion, he is right. With the private disputes between the parties the petitioners are not entitled to approach the High Court under art.226 seeking public law remedy. Their remedy, if any, was before the Civil Court or any other forum, if there is one according to the existing law.

4. For these reasons, the petition is dismissed. No costs. Certified xerox.
(Jayanta Kumar Biswas, J)