

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 16029 of 2023**

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THE RESERVE BANK OF INDIA
Versus
BANK OF INDIA

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Appearance:

MR AMAR N BHATT(160) for the Petitioner(s) No. 1

MR AS PANESAR(5390) for the Respondent(s) No. 1

NOTICE UNSERVED for the Respondent(s) No. 2

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CORAM: HONOURABLE MR. JUSTICE N.V.ANJARIA
and
HONOURABLE MR. JUSTICE DEVAN M. DESAI

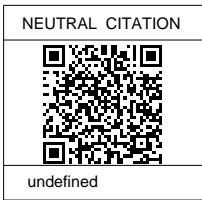
Date : 26/09/2023

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)

At the outset, learned advocate Mr. Amar Bhatt for the petitioner seeks to delete respondent No.2 from the array of the parties stating that the said respondent is not a necessary party in the present petition having regard to the nature of controversy and the kind of challenge involved herein.

1.1 As requested, the respondent No.2 is permitted to be deleted from the array of the respondents in the present proceedings at the cost and consequences of the petitioner.

2. In the facts and circumstances of the case and having regard to the compass of the controversy, the petition was taken up for final consideration with the consent and request of learned advocates for the parties.



2.1 Rule returnable forthwith. Learned advocate Mr. A. S. Panesar waives service of Rule on behalf of respondent No.1.

3. Heard learned advocates for the respective parties.

4. What is prayed in this petition is to set aside order dated 24/28.08.2023 passed by the Commercial Court, City Civil Court, Ahmedabad below Exh.9 application.

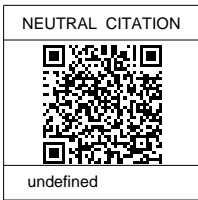
5. The facts involved are that the respondent herein-the Reserve Bank of India instituted Commercial Suit against the defendant Amit Jagdish Rathod seeking to recover Rs. 6,66,596.55 ps. with interest, which was towards the recovery of car loan advanced by the bank to the said private party-the defendant.

5.1 In the said proceedings, came to be passed order-cum-notice Exh.9. The said order reads as under,

“Heard the Ld.Adv. For the plaintiff bank. Considering the statement of account produced by the plaintiff bank, this court find there are very serious issue regarding public policy of bank leaving unilateral charges the account of customer especially charges the Notice fees, litigation charges etc.. Also the Court find other anomalies. This is found in most of the matters.

Since the issue involves larger public interest, the court is of the view that Regional Director of Reserve Bank of India be issued notice to assist this court in this matter.

Let be issued Court Notice to the Regional Director of Reserve Bank of India to remain present before this Court and assist the Court regarding this.”



5.2 The Commercial Court below stating that very serious issues regarding public policy of bank were involved in the suit and that unilateral charges were levied against the customer-the plaintiff, directed the Regional Director of Reserve Bank of India to personally remain present to assist the court.

5.3 It is beyond comprehension as to under which provision the order of such nature has been passed. The Commercial Court could not have directed personal presence of the Regional Director of Reserve Bank of India on spacious ground of larger public interest. The plaintiff is *dominus litis* and it is the right of the plaintiff to decide as to which party is to be arraigned in the proceedings.

6. In any view of the matter, the Commercial Court has transgressed its powers in passing the order of above kind and nature. It deserves to be set aside. Accordingly, order dated 24/28.08.2023 passed by the Commercial Court, City Civil Court, Ahmedabad below Exh.9 application is set aside.

7. The petition is allowed. Rule is made absolute.

(N.V.ANJARIA, J)

(D. M. DESAI, J)

C.M. JOSHI