(2022) 08 BOM CK 0012

In the Bombay High Court

Case No : Writ Petition No.3616 Of 2021

Rajan Shrivallabha Deshpande APPELLANT

Vs

Bank Of Baroda RESPONDENT

Date of Decision : 08-08-2022

Acts Referred:

Constitution Of India, 1950 — Article 32, 226
Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 13(2)
Indian Penal Code, 1860 — Section 109, 120B, 419, 420, 467, 468, 471
Prevention Of Corruption Act, 1988 — Section 13(1)(d), 13(2)
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2022) 08 BOM CK 0012

Hon'ble Judges : A. S. Chandurkar, J;Urmila Joshi Phalke, J

Bench : Division Bench

Advocate : M.M. Sudame, S.N. Kumar

Final Decision : Allowed

Judgement

Urmila Joshi-Phalke, J

1. The petitioner has challenged the action of his de-empanelment by respondent No.1-Bank of Baroda vide communication dated 16.12.2019. A challenge is also raised to the show-cause notice dated 22.07.2020 as having been issued with premeditation.

2. The petitioner is a registered legal practitioner since 16.9.1980. He is member of Akola Bar Association and practicing at Akola District Court. He had represented various institutions such as Dr. Panjabrao Deshmukh Krishi Vidyapeeth, Akola, as a Special Counsel for Municipal Corporation, Akola and various educational institutions and nationalized & co-operative Banks. As per the contention of the petitioner he was on the panel of Advocates of respondent No.1-Bank of Baroda under the control of regional office Nagpur since more than 30 years.

3. In the year 2012, the petitioner was asked by Bank of Baroda, Branch at Jalna for title report (search report) in respect of property belonging to M/s. Krishidhan Seeds Limited. The petitioner was asked to submit search report of Nazul Plot No.6/3, Sheet No.26-D, situated in the area known as Mangaldas Market, Akola, Taluka and District Akola, admeasuring area 1702 sq.ft. along with building constructed thereon. Accordingly, he had perused the documents supplied to him by the Bank and carried the requisite search at the office of Sub-Registrar, Akola of 30 years. The petitioner had submitted the title report on 11.5.2012. As per the contention of the petitioner he had prepared said title report with utmost care and by due diligence by safeguarding the interest of the Bank. But suddenly on 21.12.2019 he had received a communication dated 16.12.2019 by which it was intimated to him that his name was removed from the list of Bank's Panel Advocates. As per the contention of the petitioner the action of de-empanelment is completely stigmatic and arbitrary. His name was removed from the panel of Advocates by the Bank on an allegation that the search report submitted by him was not undertaken with due diligence. The petitioner had returned the remaining work of Bank. It is further contended by the petitioner that the Bank did not afford any opportunity of justification to him. The action of the Bank was against the settled principles of natural justice. He had submitted the reply to the said communication on 10.1.2020. He had explained that the Property Card dated 27.12.2019 nowhere reflected that M/s. Krishidhan Seeds Limited had sold any portion of property to some other persons. During the inspection of the Index-II register also nowhere it revealed that any sale transaction had taken place. There was absolutely no negligence on his part while issuing search report. He had received a show cause notice on 22.07.2020 as to why his name should not be referred to IBA for adding it in Caution List on the ground that on account of his gross negligence in providing a wrong title search report, fraud was committed by the borrower. The Bank had also issued notice to his son, who is practicing Advocate though he was not on the panel of Bank. The petitioner had replied the said show cause notice on 25.8.2020. As per contention of the petitioner entire action of the Bank is stigmatic, arbitrary and liable to be quashed. It has maligned the reputation of the petitioner.

4. The writ petition is opposed by the Bank of Baroda by filing detailed submissions. The stand taken by the Bank is that in the year 2012 M/s. Rajendra Agri Products Private Limited along with its Managing Director had approached to the Bank of Baroda, Jalna Branch for grant of cash credit limit. The cash credit limit of Rs.10/ crores was sanctioned to the borrower on various terms and conditions including the mortgage of Nazul Plot No.6/3, Sheet No.26-D, admeasuring 1702 sq. ft. along with building constructed thereon. The owner of said property M/s. Krishidhan Seeds Limited was corporate guarantor to the said cash credit facility. In order to ascertain that said property was free from any encumbrances, the Bank had requested the petitioner to submit a search report. The petitioner had issued title verification and search report on 11.5.2012 to the Jalna Branch, wherein petitioner had categorically stated that the property is in

exclusive possession of the said party and it was having clear and marketable title. Based on the said search report the Bank had sanctioned the financial facilities to M/s. Rajendra Agri Products Private Limited. Subsequently, the loan account of the borrower became NPA on 30.6.2015. Therefore, the Bank had issued notice dated 6.7.2015 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as, "the SARFAESI Act") to the borrower and the guarantors calling upon them to pay the outstanding amount of Rs.10,26,82,816.87 as on 14.2.2015 with interest. As per the notice the borrower had not repaid the amount and hence the Bank had taken physical possession of the entire mortgage property except 7 shops situated on the ground floor. The Bank could not take possession of 7 shops as it was objected by the shop owners on the ground that they are the owners and in possession of the said shops and they had purchased it from M/s. Krishidhan Seeds Limited. Thus, for the first time the Bank came to know that M/s. Krishidhan Seeds Limited had already sold 7 shops situated on the ground floor prior to mortgaging entire property in favour of the Bank securing the financial facilities. Therefore, the Bank engaged other empanelled Advocate for search report in respect of said property. On the basis of search report issued by another empanelled Advocate it revealed to the Bank that 7 shops were already sold by M/s. Krishidhan Seeds Limited. It is the contention of the Bank that the petitioner had not issued the title search report with due diligence and on relying upon such wrong report issued by the petitioner, the Bank advanced substantial loan to the borrower. As the loan account of the borrower became NPA the Bank was unable to recover its dues to the extent of value of the 7 shops situated on the ground floor of the mortgage property. Due to the act of the petitioner, the Bank has sustained the loss. It was loss to the public money and therefore show cause notice was issued to the petitioner. The show cause notice has been rightly issued as per the RBI Circulars. The action taken by the Bank was justified and no interference was called for.

5. Heard Shri M.M. Sudame, learned counsel for the petitioner. He submitted that the petitioner had issued title report on the basis of the documents available to him. There was no intention on the part of the petitioner to defraud the Bank. The petitioner had carried out relevant search from the documents available at the Sub-Registrar's Office. Admittedly, there were no entries in the Index-II register as well as the record of the Sub-Registrar's Office regarding any transaction which had taken place between M/s. Krishidhan Seeds Limited and the shop owners. On the basis of the available documents the petitioner had issued the said search report. Before de-empanellment of the petitioner, the Bank ought to have give an opportunity to the petitioner to give an explanation regarding the said search report. But the Bank had not afforded any opportunity to the petitioner. On the contrary, it not only issued notice to the petitioner but also issued notice to the son of the petitioner who had no concern with the Bank. Son of the petitioner was not on the panel of the Bank. There was no reason for

the Bank to issue notice to the son of the petitioner. Due to the action of the Bank the reputation of the petitioner as well as of his son was affected and maligned. Hence, the action of the Bank be declared as arbitrary, stigmatic and it was liable to be set aside. On instructions, it was submitted that the petitioner was not desirous of continuing as a legal advisor for the Bank and that all pending matters had been returned back.

6. In support of his contention he placed reliance in the case of Mahabir Auto Stores and Others vs. Indian Oil Corporation and others, reported in (1990) 3 SCC 752, wherein it is held that every action of the State or an instrumentality of the State in exercise of its executive power, must be informed by reason. In appropriate cases, actions uninformed by reason may be questioned as arbitrary in proceedings under Article 226 or Article 32 of the Constitution. He also relied upon Union of India and another vs. Kunisetty Satyanarayana, reported in (2006) 12 SCC 28, Siemens Ltd. vs. State of Maharashtra and others, reported in (2006) 12 SCC 33, Kalabharati Advertising vs. Hemant Vimalnath Narichania and others, reported in (2010) 9 SCC 437 and Om Prakash Chautala vs. Kanwar Bhan and others, reported in (2014) 5 SCC 417 to urge that a show-cause notice issued with premeditation was bad in law.

7. On the basis of above decisions of the Hon'ble Apex Court he submitted that reputation is fundamentally a glorious amalgam and unification of virtues which makes a man feel proud of his ancestry and satisfies him to bequeath it as a part of inheritance on posterity. It is an honour which deserves to be equally preserved by the downtrodden and the privileged. The aroma of reputation is an excellence which cannot be allowed to be sullied with the passage of time. It is dear to life, on some occasions it is dearer than life. He submitted that as observed by the Hon'ble Apex Court that reputation is fundamentally a glorious amalgam and unification of virtues which makes a man feel proud, in the present case due to the action of the Bank the reputation of the petitioner is affected and therefore the action of the Bank deserves to be declared stigmatic and deserves to be set aside.

8. On the other hand, Shri S.N. Kumar for the Bank submitted that the petitioner who was an Advocate on the panel of the Bank was under obligation to act diligently and submit search report. On the basis of the search report submitted by the petitioner, the Bank had sanctioned financial facilities to the borrowers. Due to the negligence on the part of the petitioner, the Bank had suffered loss and the amount which was sanctioned towards loan was not recovered. It was a public money and the loss is caused to the public money due the act of the petitioner. Since the petitioner had returned all cases of the Bank as per communication dated 16.12.2019, he was estopped from challenging the said communication. Action was proposed to be taken after issuing a show-cause notice to the petitioner. Since only a show-cause notice was issued there was no reason to interfere at this stage. Therefore, the action taken by the Bank is justified and no interference is called for.

9. After hearing both sides at length, the short question that arises for consideration is when an Advocate acting professionally and in discharge of his/ her professional duty renders an opinion by giving non-encumbrance certificate to the Bank for granting loan to a borrower certifying that he has clear marketable title which is subsequently found unacceptable, could the Advocate be held liable for any action. Admittedly, the petitioner was on the panel of the Bank. There is no dispute that the petitioner is a practicing Advocate since last 30 years. It is not denied by the Bank that the petitioner had represented several institutions such as Dr. Panjabrao Deshmukh Krishi Vidyapeeth and other educational institutions. It is an admitted fact that in the year 2012 the petitioner was requested by the Bank of Baroda, Branch at Jalna for issuing his title opinion report in respect of the property belonging to M/s. Krishidhan Seeds Limited, Jalna. As per the Bank, the Director of M/s. Krishidhan Seeds Limited stood as a guarantor to the loan obtained by M/s. Rajendra Agri Products Pvt. Ltd. The cash credit limit of Rs.10/-crore was granted to the borrower on various terms and conditions including the mortgage of Nazul Plot No.6/3, Sheet No.26-D, admeasuring 1702 sq. ft. along with building constructed thereon situated in the area known as Mangaldas Market, Akola. It is submitted on behalf of the petitioner that after a request was made by the Bank of Baroda for issuing a search report, he had perused the documents supplied to him and carried the requisite search at the office of Sub-Registrar, Akola of 30 years. Accordingly, he had submitted title report on 11.5.2012. He had prepared said title report with utmost care and by due diligence by safeguarding the interest of the Bank, whereas it is submitted by the Bank that when the cash credit account became NPA the Bank has issued a notice under Section 13(2) of the SARFAESI Act to the borrower and the guarantors. Said notice was not complied with and therefore the Bank had taken the physical possession of the entire mortgage property. At the relevant time it came to the knowledge of the Bank that 7 shops situated in the building that was mortgaged were sold out prior to the mortgage by M/s. Krishidhan Seeds Limited. This fact was not brought to the notice of the Bank by the petitioner while issuing search report. The Bank had through another empanelled Advocate obtained the search report and as per the search report dated 15.10.2018 it revealed that the 7 shops were already sold by M/s. Krishidhan Seeds Limited prior to the mortgage of the property vide sale-deeds dated 24.4.2001, 31.8.2001, 28.9.2001 and 28.9.2001. Thus, it is submitted by the learned counsel for the Bank that there was sheer negligence on the part of the petitioner due to which Bank had suffered loss.

10. We have perused the search report issued by the petitioner. From the said search report it appears that the petitioner had taken the search in respect of various aspects like whether any minor, lunatic or undischarged insolvent is involved or whether mortgagor has sufficient capacity to contract. He answered the same in the affirmative. He also ascertained whether the property is freehold or leasehold and accordingly answered in the affirmative. He further ascertained that said property is the acquired property of M/s. Krishidhan Seeds Limited by

registered sale-deed dated 9.12.1999. Search report further revealed that mortgagor is in exclusive possession of the property. He also mentioned about various documents scrutinized and verified by him during the inspection of the documents. He also recommended that affidavit of any of the Directors authorized may be obtained that the Company had not secured loan from any other financial institution and that the property title was clear and marketable. Thus, it reveals from the search report that while preparing the same, the petitioner had visited the Sub-Registrar Office and verified the various documents like registered sale-deed in respect of portion of Nazul Plot No.6/3, Sheet No.26-D, Akola, dated 9.12.1999 at Serial No.5833, a record of right in favour of M/s. Krishidhan Seeds Limited, sanctioned map along with commencement certificate dated 26.5.2000, municipal tax receipt, no due certificate of Bank of Baroda A.B. Road Branch, Indore, application submitted by M/s. Krishidhan Seeds Limited to TILR Akola for deleting the entry of charge of Bank of Baroda in Indore. Thus, it is apparent that while preparing the search report petitioner had visited the Sub-Registrar's Office, carried out the inspection of various documents and on the basis of said document he prepared the search report. At the same time he also recommended that additional affidavit of any of the Directors may be obtained to ascertain that the Company had not secured loan from any other financial institution and the property had a clear and marketable title.

11. Now a days it is a settled practice that for obtaining loan or while granting loan rendering a legal opinion has become an integral component of an Advocate's work in Banking sector. Therefore, an Advocate on his part has responsibility to act to the best of his knowledge and skills and to exhibit an unremitting loyalty to the interest of his client. An Advocate is required to exercise due diligence in a manner that would advance the interest of his client. However, while acting so the Advocate never assures his client that the opinion so rendered by him is after taking due precaution and care. Like any other profession, the only assurance which an Advocate can give and may be implied from an Advocate while acting in professional capacity is that his possesses the requisite skill in his field of practice and while undertaking the performance of the work entrusted to him, he would exercise his skill with reasonable competence. In this regard we may refer to the following observations made by the Hon'ble Supreme Court in the case of Central Bureau of Investigation, Hyderabad vs. K. Narayana Rao, reported in (2012) 9 SCC 512, wherein a First Information Report came to be lodged for commission of offences punishable under Sections 120-B, 419, 420, 467, 468 and 471 read with Section 109 of the Indian Penal Code, 1860 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 against various accused including a legal practitioner, who was a panel advocate of a Bank. It was alleged that said panel advocate had given a false legal opinion with regard to 10 housing loans. The legal practitioner filed proceeding under Section 482 of the Code of Criminal Procedure, 1973 for quashing the criminal proceeding. The Andhra Pradesh High Court quashed the said proceeding against the legal practitioner. That order was

challenged before the Hon'ble Supreme Court. In paragraph 27 of the said decision it has been observed as under :

"27. In the banking sector in particular, rendering of legal opinion for granting of loans has become an important component of an advocate's work. In the law of negligence, professionals such as lawyers, doctors, architects and others are included in the category of persons professing some special skills. A lawyer does not tell his client that he shall win the case in all circumstances. Likewise a physician would not assure the patient of full recovery in every case. A surgeon cannot and does not guarantee that the result of surgery would invariably be beneficial, much less to the extent of 100% for the person operated on. The only assurance which such a professional can give or can be given by implication is that he is possessed of the requisite skill in that branch of profession which he is practising and while undertaking the performance of the task entrusted to him, he would be exercising his skill with reasonable competence. This is what the person approaching the professional can expect. Judged by this standard, a professional may be held liable for negligence on one of the two findings, viz., either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess."

In Pandurang Dattatraya Khandekar vs. Bar Council of Maharashtra, reported in (1984) 2 SCC 556, it is held by the Hon'ble Apex Court that there is a world of difference between the giving of improper legal advice and the giving of wrong legal advice. Mere negligence unaccompanied by any moral delinquency on the part of a legal practitioner in the exercise of his profession does not amount to professional misconduct. It is held by the Hon'ble Apex Court that, therefore the liability against an opining advocate arises only when the lawyer was an active participant in a plan to defraud the Bank. To determine whether the person charged has been negligent or not, he has to be judged like an ordinary competent person exercising ordinary skill in that profession. It is not expected that every professional possesses the expertise in the said branch which he practices.

12. In the present case, admittedly the work of submitting a title report/search report was entrusted to the petitioner. Accordingly, the petitioner had carried out the inspection by visiting the Sub-Registrar's Office and inspected various documents in Sub-Registrar's Office as well as the documents supplied to him by the Bank. On the basis of said documents he had prepared his search report/title report and submitted to the Bank. At the same time he had also taken care to recommend some safeguards to be followed by the Bank. His search report shows that he had suggested the Bank that it should obtain an affidavit of any of the Directors authorized to the extent that the Company had not secured loan from any other financial institution and that the property had clear and marketable title. As advised, the Bank was under obligation to obtain such affidavit in the light of the opinion or recommendation given by the petitioner. It

appears that the Bank did not take the precaution of obtaining any such affidavit from the Directors of the M/s. Krishidhan Seeds Limited. It is well settled that mere negligence or want of greater professional care on the part of an Advocate would not make him liable for negligence in absence of any evidence. In the present case, before de-empanellment of the petitioner, the Bank ought to have give an opportunity to the petitioner to justify his search report. Admittedly, the Bank has not given any opportunity to him and has issued the communication on 16.12.2019. Said communication was replied by the petitioner by giving his justification as to the basis on which he came to the conclusion that the property had clear marketable title. Perusal of the petitioner's reply dated 09.01.2020 reveals that after receiving the communication dated 16.12.2019, the petitioner again carried out inspection of the Index-II register of the said property on 02.01.2020. Even on that day the said register did not reveal any transaction of sale as alleged. A copy of the certified extract of the property card obtained on 27.12.2019 is also placed on record by the petitioner along with a copy of the judgment in Special Civil Suit No.27/2015 filed against the Bank in which the petitioner represented the Bank was dismissed on 22.10.2019. The petitioner has also placed on record reply dated 18.11.2020 issued by the Sub-Registrar, Akola in which it is stated that in the Index-II register no entries of the sale-deeds dated 24.04.2001, 31.08.2001, 28.09.2001 and 28.09.2001 had been made.

From the aforesaid, it becomes clear that the communication dated 16.12.2019 stating that the petitioner had submitted a wrong title search report does not disclose the correct state of affairs. While the petitioner has relied upon the Index-II register of the property obtained in the year 2012 as well as in the year 2019 to support his opinion that the property had a clear and marketable title, the Bank has found that 7 shop blocks had been sold out in 2001 as per the title search report obtained by it. In this context, the advice given by the petitioner in his title search report dated 11.05.2012 that affidavit of the Directors of the Company be obtained stating that it had not obtained any loan from any financial institution and that the title was clear and marketable becomes relevant. The Bank did not obtain such affidavit from any Director of the Company. In that view of the matter it can also be said that the Bank did not exercise due care and caution despite the opinion of the petitioner contained in the title search report before advancing the loan to the Company. In any event, as the petitioner has now expressed his desire of not being interested in continuing on the panel of the Bank and having returned all pending proceedings to the Bank, instead of interfering with the decision of de-empanellment of the petitioner by the Bank, it is declared that the observations in the said communication that the petitioner had not submitted the title search report with due diligence and that it was a wrong title search report have been made without granting any opportunity of explanation to the petitioner nor by supplying details of the investigation carried out by the Bank. The following observations in the said communication dated 16.12.2019: "Upon detailed investigation it was noticed that you did not submitted your title search report with due diligence and due to relying upon your report the branch has advanced the said loan facilities.

Considering above, as the branch has advanced the loan relying upon your wrong title search report and therefore” are thus expunged since they tend to malign the professional reputation of the petitioner without granting him any opportunity to show-cause.

13. Coming to the challenge to the show-cause notice dated 22.07.2020, it is to be noted that the scope for interference at the stage of issuance of show-cause notice is limited. If the show-cause notice is issued with premeditation or the authority issuing the same has already made up its mind, as observed in Siemens Limited (supra) there would be scope for interference. The challenge to the show-cause notice dated 22.07.2020 would have to be examined on this limited premise.

In the show-cause notice, reference has been made to the petitioner’s title search report dated 11.05.2012, sale of 7 shop blocks prior to creation of mortgage and a fresh title search report being obtained by th Bank on 15.10.2018. Thereafter, it has been stated as under :

“In the event it is established that there was gross negligence on your part or you had colluded with our borrower in causing pecuniary damage/loss to the Bank we may recommend your name for including in the Caution list being maintained by the IBA for circulation amongst member banks.

In view of the above, your gross negligence in providing wrong NEC/TCR, has facilitated commission of fraud by the borrower with the Bank and has further put the Bank at loss. Therefore, you are called upon to show cause within 15 days from the receipt of this show cause notice (latest by 10.08.2020) as to why your name not to be given to IBA for adding in Caution List, failing which bank will proceed ex-parte and shall at the liberty to write to IBA for adding your name in the caution list.”

In this context, it is also necessary to refer to Clause 3.2.3 of the Master Circular updated by the Reserve Bank of India in the matte of reporting frauds to the Reserve Bank of India. The said clause reads as under :

“3.2.3. Banks should exercise due diligence while appraising the credit needs of unscrupulous borrowers, borrower companies, partnership/proprietorship concerns and their directors, partners and proprietors, etc. as also their associates who have defrauded the banks.

In addition to above borrower-fraudsters, third parties such as builders, warehouse/cold storage owners, motor vehicle/ tractor dealers, travel agents, etc. and professionals such as architects, valuers, chartered accountants, advocates, etc. are also to be held accountable if they have played a vital role in credit sanction/ disbursement or facilitated the perpetration frauds. Banks are advised report to Indian Bank Association (IBA) the details of such third parties involved in frauds.

Before reporting to IBA, banks have to satisfy themselves of the involvement of third parties concerned and also provide them with an opportunity of being heard. In this regard the banks should follow formal procedure and the processes followed should be suitably recorded. On the basis of such information, IBA would, in turn, prepare caution lists of such third parties for circulation among the banks."

Thus, prior to reporting the name of a third party to the Indian Banks Association (IBA), a Bank is required to satisfy itself of the involvement of such third party and also provide it an opportunity of being heard. The Bank has to hold a third party accountable if it has played a vital role in credit sanction/disbursement or has facilitated the perpetration of the fraud.

14. If the show cause notice dated 22.07.2020 is perused it makes reference to the guidelines and states that if it was established that there was gross negligence on the part of the petitioner or that he had colluded with the borrower in causing pecuniary damage/loss to the Bank, his name could be recommended for being included in the Caution List. Thereafter it states that in view of the petitioner's gross negligence in providing a wrong title search report, the same facilitated commission of fraud by the borrower with the Bank. In other words, the Bank had already arrived at a conclusion that the title search report submitted by the petitioner was wrong and there was gross negligence on the part of the petitioner thus facilitating commission of fraud by the borrower. After recording that conclusion, the Bank has called upon to show cause why his name should not be sent to the IBA for being added in the Caution List.

This conclusion of the Bank is also in contrast to what has been stated in the earlier part of the same notice wherein it is stated that the title search report was not submitted with due diligence.

In our understanding, considering the object of the Guidelines and the consequence of sending the name of a third party for inclusion in the Caution List it would be necessary for the Bank to grant an opportunity of hearing to a professional before recording its satisfaction on the aspect of gross negligence, as in the present case. If such satisfaction of the professional being grossly negligent is first recorded and the show cause notice is issued thereafter, it would indicate that the Bank has made up its mind of referring the name of the professional to the IBA for inclusion in the Caution List. The opportunity of being heard thereafter would be nothing but an empty formality. Needless to state that inclusion of a professional's name in the Caution List results in far-reaching consequences, professionally as well as socially. It would have a definite effect on the career of the concerned professional. Hence, for giving a meaningful opportunity of being heard as per Clause 3.2.3 of the Master Circular, the same ought to be given to a third party prior to the Bank recording its satisfaction about the involvement of a third party-professional as regards his/her gross negligence, as in the present case. Here though the Bank has referred to a fresh title search report obtained by it on 15.10.2018, the same was neither supplied to the petitioner nor has it been placed on record in the writ petition. Had it been supplied to the petitioner, he would have had an opportunity to counter the same. On the contrary, the petitioner has placed on record material obtained after issuance of the show-cause notice relevant records to indicate that in the Index-II register there was no reference to the sale-deeds executed with regard to the said property.

For these reasons, a case for interfering at the stage of issuance of show-cause notice in this case has been made out. The show-cause notice dated 22.07.2020 is thus liable to be quashed by granting liberty to the Bank to take appropriate steps, if so advised, in the light of the observations made herein above.

15. For aforesaid reasons the following order is passed :

(i) The Writ Petition is allowed.

(ii) The following observations in the communication issued by the respondent No.2-Bank dated 16.12.2019 which are "Upon detailed investigation it was noticed that you did not submitted your title search report with due diligence and due to relying upon your report the branch has advanced the said loan facilities.

Considering above, as the branch has advanced the loan relying upon your wrong title search report and therefore" are expunged.

(iii) The show-cause notice issued by Bank of Baroda dated 22.7.2020 is quashed with liberty to the Bank to take appropriate steps, if so advised, as per observations in paragraph 14 hereinabove.

(iv) Rule is made absolute in the aforesaid terms. No costs.

