

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.P. No. 24174 of 2015
and

M.P. No.1 of 2015

M/s.Viking Engineering Enterprises
represented by its Proprietor V. Dheenadayalan
No.7, Mettukuppam Road
Seemathamman Nagar
Maduravoyal
Chennai 600 095

... Petitioner

Vs.

1. The Assistant General Manager
State Bank of India, SARB
II Floor, Red Cross Building
No.32, Montieth Road
Egmore, Chennai 600 008
2. The Recovery Officer
DRT-III, Chennai
V Floor, Spencer Tower
No.770-A Anna Salai, Chennai 600 002

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records related to the order dated 20.05.2015 passed by the first respondent and quash the same.

For petitioner : Mr. A.S. Balaji
for M/s. Thenmozhi Shivaperumal

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The challenge in this writ petition is to the validity of the communication dated 20th May 2015 addressed by the first respondent bank, whereunder, the rate of interest stipulated by the second respondent, i.e., the Debts Recovery Tribunal-III, Chennai (for short "the Tribunal"), was not modified, as sought by the petitioner.

2. The learned counsel for the petitioner submits that the Tribunal has determined the rate of interest at 14% per annum and a Recovery Certificate was also issued thereafter. Earlier, the petitioner has preferred a writ petition being W.P. No.25787 of 2013, questioning the order of attachment of immovable property dated 6th August 2013, which was passed pursuant to the Recovery Certificate in D.R.C. No.95 of 2013 dated 5th April 2013, on the basis of the order, as aforesaid, passed by the Tribunal. In W.P. No.25787 of 2013 also, the issue involved was grant of excessive interest, as is in the instant writ petition. A Division Bench of this Court, having considered all aspects of the matter, by order dated 23rd April 2015, directed the first respondent bank to consider the petitioner's representation and take a fresh decision in accordance with law and on its own merits. Thereafter, the first respondent bank had taken a final decision by the impugned communication dated 20th May 2015, holding that the rate of interest determined by the Tribunal was reasonable and in favour of the borrower and as such, no further modification was necessitated. Thus, the petitioner/borrower is before this Court by this petition, questioning the legality of the said communication.

3. We have examined all the facts of the case. The Tribunal had determined the rate of interest, after considering the cases of both the parties. The said order passed by the Tribunal has become final, inasmuch as, we do not find any document indicative of the fact that an appeal or petition, challenging the said order of the Tribunal, has been taken to any higher forum. Subsequently, Recovery Certificate, on the basis of the said order, was also issued on 5th April 2013. The petitioner has accepted the rate of interest by not challenging the same before the higher forum. The said issue was agitated before this Court in W.P.No.25787 of 2013, which was dismissed granting liberty to the petitioner to make a representation to the bank, leaving the issue open for the bank to take a final call in the matter. Accordingly, the first respondent bank had taken a decision not to modify the rate of interest, as fixed by the Tribunal.

4. We do not find any infirmity, irregularity or illegality in the impugned communication rejecting the petitioner's representation for modification of the rate of interest.

5. As a sequitur, the writ petition fails and is accordingly dismissed. Connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cad

To

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SVI (CO)
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