IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

C O R A M

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

W.P. No.32481 of 2015
and
M.P.No.1 of 2015

Indian Bank,
Hosur Branch
now represented by Asset
Recovery Management Branch,
Chennai-600 008. ...Petitioner

Vs

1.M/s.Raj Mahal Super Bazaar,
Partnership Firm,
rep by its Partners,
Bye-pass Road,
Hosur-635 109.
2.C.Prakash
Partner : M/s.Raj Mahal Super Bazaar
and also M/s.Decton Enterprises,
D/12/1, Opp: Travellers Bungalow,
Dinnur, Hosur Taluk,
Dharmapuri District.
3.R.Janardhanan,
Partner : M/s.Raj Mahal Super Bazaar
and also M/s.Decton Enterprises,
No.18, V.M.C. Colony,
R.S.Puram, Coimbatore.
4.Meenakshi
Partner : M/s.Raj Mahal Super Bazaar
No.M-106/7, 29th Cross Street,
Besant Nagar, Chennai-600 090.
5.N.Jayaraman,
Partner : M/s.Raj Mahal Super Bazaar,
Pedda Belagondapalli Village & Post,
Denkanikota Taluk,
Dharmapuri District.

6.R.Chandra,
Partner : M/s.Raj Mahal Super Bazaar,
II Floor, T.K.M.Complex,
No.46-51, Katpadi Road, Vellore.

7.Rekha,
Partner : M/s.Raj Mahal Super Bazaar,
New Building, Alasantham Road,
Hosur, Hosur Taluk.

8.M/s.Decton Enterprieses,
A partnership Firm,
No.14/12, Chinnasamy Reddy Complex,
Denkonda Main Road,
Hosur, Hosur Taluk,
Dharmapuri District.

9.N.Vijayakumar,
Partner of M/s.Decton Enterprises,
Pedda Belagondapalli Village & Post,
Denkanikota Taluk,
Dharmapuri District.

10.Parvathammal ...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of certiorarified mandamus to call for the records in respect of the order dated 29.7.2015 made in R.A.No.102 of 2014 passed by the Debts Recovery Appellate Tribunal at Chennai and to quash the same and direct the respondents to pay the suit claim of Rs.22,68,029.39 together with interest at 21.75% per annum with half yearly rests from the date of suit, i.e. from 10.7.1995 till date of realisation in full with costs.

For petitioner ... Mr.R.Sivakumar

ORDER

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

The instant writ petition is directed against the order dated 29th July, 2015 passed by the Debt Recovery Appellate Tribunal, Chennai in RA No.102 of 2014.

2 The appeal before the appellate Tribunal arose from the order dated 8th March, 2012 passed in T.A. No.2 of 2010 by the Debts Recovery Tribunal-III, Chennai. The learned Presiding Officer, Debt Recovery Tribunal-III held that the bank is entitled to recovery certificate against the defendants personally, jointly and severally for a sum of Rs.22,68,029.39 with further interest at the rate of 21.75% per annum with half

yearly rest from the date of filing of the suit till realisation with costs and sale of the suit schedule properties.

3 Thereagainst, the second and tenth respondents herein, who happened to be the son and mother, preferred an appeal before the appellate Tribunal in RA No.102 of 2014. The learned Chairperson considered the matter at length and modified the interest rate from 21.75% per annum with half yearly rest to simple interest at the rate of 20.50% per annum on the principal sum, as aforestated. Thus, the instant writ petition questioning the correctness of the order of reduction of interest.

4 The learned counsel for the petitioner submits that the borrower and guarantor have agreed to pay the interest at the rate of 21.75% per annum with quarterly rest. The appellate tribunal had reduced the rate of interest without proper appreciation of the controversies involved.

5 We have examined the impugned order rendered by the appellate tribunal. The learned Chairperson, relying on the judgment of the Supreme Court in Central Bank of India Vs. Ravindra and others[1] held that the interest at the rate of 21.75% per annum with half yearly rest was excessive and as such, the interest rate was reduced to simple interest. It is also recorded that the rate of interest charged by the Reserve Bank of India is about 11.50 % and when the commercial bank was charging interest at the rate of 20.50% at the time when the loan was disbursed, the interest at the rate of 21.75% is excessive. Thus, the interest be reduced to 20.50% per annum.

6 We have examined the pleadings and the submissions advanced by the learned counsel for the Bank.

7 Incontrovertibly, the interest rate has to be determined as per the agreement. However, the interest rate has to be examined keeping in view the amount of loan and also the feasibility of payment at the earliest. In that view of the matter, we do not find any reasonable explanation offered by the petitioner bank to differ from the view of the appellate tribunal. Even otherwise, the High Court, in exercise of its power under Articles 226/ 227 of the Constitution of India is not required to sit as an appellate authority, except examining as to whether any apparent error, irregularity or irrationality have cropped up in the matter, which is sought to be impugned in the writ petition. We are of the considered opinion that no prejudice would be caused to the bank, if excessive interest rate is reduced slightly to 20.75% per annum, as held by the appellate tribunal.

1 (2002) 1 SCC 367

8 Resultantly, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vvk
To

Indian Bank,
Hosur Branch
now represented by Asset
Recovery Management Branch,
Chennai-600 008.

+ 1 cc to Mr.R.Sivakumar, Advocate Sr.55850

W.P. No.32481 of 2015

MSM(CO)
EU 30.11.15