

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.31791 of 2003
and
W.P.M.P.No.38597 of 2003

Pondicherry State Co-operative Bank Ltd.,
Main Branch, Pondicherry,
rep. by its Branch Manager. ... Petitioner

Vs

1.The President Officer,
Co-operative Appellate Tribunal,
Pondicherry.
2.J.P.Tamilselvam
3.J.P.Anna Durai ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to order dt. 10.1.2003 in Co-op. Appeal No.2/99 on the file of the 1st respondent and quash the same in so far as it reduces the rate of interest from 23% to 9%.

For Petitioner : Mr.R.Syed Mustaffa

For Respondents : Mr.M.Sriram R2

ORDER

Heard Mr.R.Syed Mustaffa, learned counsel for the petitioner and Mr.M.Sriram, learned counsel for the second respondent.

2. The petitioner is Pondicherry State Co-operative Bank Limited and the challenge in this writ petition is to the judgment delivered by the Co-operative Appellate Tribunal, Pondicherry in Co-operative Appeal No.2 of 1999, dated 10.01.2003. The petitioner herein was the plaintiff before the Registrar of Co-operative Societies (Arbitrator), Pondicherry, who had filed the petition in A.R.C.No.2805 of 1996 for recovery of the loan amount from respondent Nos.2 and 3. The Registrar,

by order dated 28.9.1998 held that respondent Nos.2 and 3 are liable to pay the loan amount together with interest at the rate of 23% per annum. Aggrieved by the same, respondent Nos.2 and 3 have filed appeal before the Co-operative Appellate Tribunal in Co-operative Appeal No.2 of 1999. The Co-operative Appellate Tribunal, by the impugned judgment, allowed the appeal in part, while confirming the decree of the Arbitrator dated 28.09.1998 modifying the rate of interest to 9% per annum. This is, according to the petitioner Bank is erroneous and not sustainable.

3. On perusal of the impugned judgment, it is seen that the Co-operative Appellate Tribunal headed by the Chief Judge/Presiding Officer, Co-operative Appellate Tribunal, Pondicherry had exercised its discretion in the matter and while confirming the Award of the Arbitrator, found that levy of interest at the rate of 23% per annum is excessive and granted partial relief to the borrowers. The petitioner Bank has not made any ground to interfere with the exercise of discretion made by the Co-operative Appellate Tribunal and this Court will not examine the correctness of the order, as if being the second Appellate Court. Hence, the reasons assigned by the Co-operative Appellate Tribunal warrants no interference.

4. The writ petition is dismissed. No costs. Consequently, W.P.M.P.No.38597 of 2003 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The President Officer,
Co-operative Appellate Tribunal,
Pondicherry.

+1 cc to Mr.R.Syed Mustafa, Advocate sr.65811

+1 cc to Mr.M.Sriram Advocate sr.65802

W.P.No.31791 of 2003

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