IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2030 of 2014

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Ganesh Prasad S/o Late Jai Govind Prasad, resident of "Geeta Nilyam" 170/14 North Anandpuri, West Boring Canal Road, Patna- 800001

.... Petitioner

Versus

1. State Bank Of India, a Body Corporate Constituted Under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 having its Head Office at Nariman Point, Mumbai- 400021, Carrying on its Business amongst its other Branches, a Branch at West of Gandhi Maidan, Patna, represented by the Chairman cum Chief Managing Director
2. Branch Manager/A.G.M. State Bank of India, Ist Floor, Patna Main Branch Building S.P.B. Branch, Patna West Gandhi Maidan
3. A.G.M., State Bank of India, RACPC, Ist Floor, Patna Main Branch Building, Patna
4. Chief General Manager, Local Head Office State Bank of India, West Gandhi Maidan, Patna
5. General Manager (Network-1) Local Head Office, State Bank of India, West Gandhi Maidan, Patna
6. Deputy General Manager, Zonal Office, State Bank of India, J.C. Road, Patna- 1

.... Respondents

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Appearance :

For the Petitioner : Mr. Raj Kishore Pd. Singh
Mr. Bal Bhushan Chaudhary, Advocates

For the Respondents: Mr. Kaushlendra Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-02-2016

The present writ petition has been filed for a direction to the respondents to refund the excess realized amount Rs. 1,82,385/- from the petitioner; and not to take any step towards recovery of balance amount of instalment from the petitioner holding that the entire agreed amount payable by the petitioner to the Bank as per the terms of the Agreement amounting to Rs. 6,15,600/- had already been realized from the Bank Account of the petitioner in 85 instalments itself by application of higher rate of interest than the agreed rate of interest as contained in Agreement.

2. Learned counsel for the petitioner submits that as against the concessional rate of interest fixed at 7.75% per annum on daily reducing balance at monthly rests provided to the petitioner in connection with sanction of housing loan by way of term loan of Rs. 4,00,000/- by the respondent-Bank by letter dated 06.12.2005 (Annexure-1), the Bank has been erroneously applying the rate of 12% interest from the very beginning as evident from the statement of account itself. It is, therefore, submitted that the respondent-Bank has realised excess amount by reason of the enhanced rate of interest erroneously charged and resultantly, the demand of Rs. 6,15,600/- by the Bank is wholly illegal.

3. Learned counsel for the respondent-Bank, on the other hand, at the very outset submits that the writ petition ought not to be entertained in view of the petitioner having filed a complaint with the Banking Ombudsman.

4. It is not in dispute that the petitioner has approached the Banking Ombudsman with a complaint despatched on 16.12.2013, as stated by the petitioner (Annexure-15). Learned counsel for the petitioner also accepts that the Banking Ombudsman is capable of granting the nature of the relief sought in the present writ petition. The petitioner is thus pursuing parallel remedies by approaching this Court

in its extraordinary writ jurisdiction. In this view of the matter as also that though the disputed rate of interest has admittedly been applied since the year 2005 itself, the petitioner has chosen to file the present writ petition after an inordinate delay of over eight years, this Court is not inclined to enter into the petitioner's claim on merits.

5. The writ petition accordingly stands disposed of with an observation that the Banking Ombudsman be directed to consider the petitioner's complaint said to have been despatched on 16.12.2013 by registered post, if still pending, and dispose of the same in accordance with law expeditiously and preferably within a period of eight weeks from the date of receipt/production of a copy of this judgment.

(Vikash Jain, J)

B.T/-

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