FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2274/2015

(M/S RADHA HERBAL AYUR PHARMA PVT. LTD., NAGPUR & OTHERS **VERSUS** CENTRAL BANK OF INDIA, NAGPUR & OTHERS)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri A.M. Ghare, counsel for the petitioners.
Shri S.D. Khati with Shri S.N. Fuladi, counsel for the R-1.

CORAM : SMT. VASANTI A NAIK AND KUM. INDIRA JAIN, JJ.

DATE : OCTOBER 06, 2016.

By this writ petition, the petitioners challenge the order of the Debts Recovery Appellate Tribunal, Mumbai, dated 22.11.2006 partly allowing the application filed by the petitioners.

The petitioners had secured the loan from the Central Bank of India for business purposes and since the petitioners defaulted in making repayment of the loan, the Bank approached the Debts Recovery Tribunal for issuance of a recovery certificate. The Debts Recovery Tribunal directed the issuance of a recovery certificate for an amount of Rs.20,76,664.76 Ps. along with interest at the rate of 14% per annum from the date of the application till the realization of the amount. In the said proceedings, the petitioners had filed a counter claim. The counter claim was partly allowed and the Debts Recovery Tribunal issued a recovery certificate in favour of the petitioners for an amount of Rs.9,46,335/- along with interest at the rate of 14% per annum from 01.08.2002 till the realization of the amount. An appeal was filed by the petitioners before the Debts Recovery Appellate Tribunal. The

Debts Recovery Appellate Tribunal partly allowed the appeal filed by the petitioners and directed that a recovery certificate be issued in favour of the Bank, by reducing the rate of interest from 14% to 12%. The petitioners have challenged the order of the Debts Recovery Appellate Tribunal, in the instant petition.

It is stated on behalf of the petitioners that the respondent-Bank has wrongfully calculated the interest with effect from 30.09.1999 though the same was liable to be paid from the date of the application, i.e. 25.02.2002. It is stated that the respondent-Bank is seeking the recovery of the amount from the petitioners by calculating the interest at the rate of 12% per annum from 30.09.1999 in stead of 25.02.2002. It is submitted that though a question was raised before the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal that the petitioners had advanced a fixed deposit account receipt of Rupees Two Lakhs while securing the loan of Rupees Ten Lakhs, the bank had illegally calculated the interest of lending on the amount of Rupees Ten Lakhs while granting a lesser rate of interest on the amount deposited by the petitioners. It is stated that the respondent-Bank has duped the petitioners like a money lender.

Shri Khati, the learned counsel for the respondent-Bank, has supported the order of the Tribunal. It is submitted that no case is made out by the petitioners for seeking interference with the order, in exercise of the writ jurisdiction. It is canvassed, by placing reliance on the chart, that is annexed to the affidavit-in-reply of the bank, that the bank is charging interest on the amount due only from 25.02.2002 and not from 30.09.1999, as claimed by the petitioners. It is seriously disputed by the bank that the bank is seeking interest from 30.09.1999. It is stated that the main objection of the petitioners before the Debts Recovery Tribunal was that the bank had misrepresented and had secured the signatures of the petitioners on certain documents by coercion and fraud.

On hearing the learned counsel for the parties, we find that the petitioners have not made out any case for interference with the order of the Debts Recovery Appellate Tribunal. The Tribunals have concurrently found that the amount was due from the petitioners to the bank and the petitioners had defaulted in payment of the loan amount. Though the Debts Recovery Tribunal had directed the recovery from the petitioners with interest at the rate of 14% per annum, the Debts Recovery Appellate Tribunal reduced the rate of interest to 12% per annum only, while maintaining the rate of interest for the recovery certificate that was issued in favour of the petitioners towards the counter claim, to 14% per annum. There is word against word in respect of the date from which the bank is charging interest on the amount due. According to the bank, the interest is being charged from the date of the application whereas according to the petitioners, it is being charged from 30.09.1999. It would not be for this Court in exercise of the writ jurisdiction to consider this dispute, more so, when a chart is appended by the respondent-Bank to the affidavit-in-reply showing that the interest is being charged on the amount due from the petitioners only from the date of the application. The petitioners are free to raise the question before the Appropriate Forum, at the time of issuance of the recovery certificate, if permissible in law. We do not find any merit in the submission made on behalf of the petitioners that because the petitioners had tendered a Fixed Deposit account receipt of Rupees Two Lakhs to the bank at the time of securing the loan, the bank should not have charged interest on Rupees Ten Lakhs.

We are not inclined to enter into the correctness or otherwise of the agreement entered into between the parties while securing the loan.

Since no ground has been made out on behalf of the petitioners for interference with the order of the Tribunal in writ jurisdiction, we dismiss the writ petition with no order as to costs.

JUDGE **JUDGE**

APTE

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed Order.

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