

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2016

CORAM:

THE HONOURABLE **MR.JUSTICE SATISH K.AGNIHOTRI**
and
THE HONOURABLE **MR.JUSTICE K.K.SASIDHARAN**

Review Application No.5 of 2016 in
W.P.No.32481 of 2015

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

... Applicant

Vs.

1.M/s.Raj Mahal Super Bazaar
Partnership Firm
Rep. by its Partners
Bye-pass Road, Hosur 635 109.

2.C.Prakash
3.R.Janardhanan
4.Meenakshi
5.N.Jayaraman
6.R.Chandra
7.Rekha
8.M/s.Decton Enterprises
A Partnership Firm
No.14/12 Chinnasamy Reddy Complex
Denakonda Main Raod,
Hosur, Hosur Taluk, Dharmapuri District.
9.N.Vijayakumar
10.Parvathammal

... Respondents

Review Petition filed under Order 47 Rule 1 read with Section 114 of
C.P.C., to review the order dated 13.10.2015 made in W.P.No.32481 of 2015.

For Petitioner : Mr.R.Sivakumar

ORDER

(delivered by **K.K. SASIDHARAN,J.**)

This review application is at the instance of the petitioner in W.P.No.32481 of 2015 and the prayer is primarily to consider the matter once again for the purpose of awarding interest as per the contract.

2. The review applicant challenged the order passed by the Debts Recovery Appellate Tribunal in R.A.No.102 of 2014 on the ground that interest was reduced from 21.75% to 20.50% per annum. The writ petition was dismissed by this Court with a finding that it would not be proper to sit as an appellate authority over the decision taken by the Debts Recovery Appellate Tribunal while exercising the writ jurisdiction.

3. The learned counsel for the applicant contended that the Debts Recovery Appellate Tribunal reduced the contractual interest without any reason. The order was confirmed by this Court without considering the agreement executed between the parties. The learned counsel therefore seeks review of the order for the purpose of restoring the contractual interest.

4. The Debts Recovery Appellate Tribunal on a careful consideration of the entire background facts reduced the rate of interest from 21.75 % to 20.50%. The Tribunal has given its own reasons for such reduction. When

the said order was challenged before this Court, we found that the Appellate Tribunal reduced the interest taking into account the interest rate charged by the Reserve Bank of India. The contractual rate was fixed over and above the interest fixed by the Reserve Bank of India. It was only on the basis of the interest rate announced by the Reserve Bank of India, the Appellate Tribunal reduced the rate of interest. Since the order passed by the Appellate Tribunal was in accordance with law, the writ petition was dismissed.

5. The Supreme Court in **Arikala Narasa Reddy v. Venkat Ram Reddy Reddygari and another [2014 (5) Scale 187]** indicated the scope of review jurisdiction in the following words:-

"...In a Review Petition, under no circumstance taking a contrary view is permissible. The scope of the Review Petition does not extend to the extent that the court can substitute its view and change its finding of facts."

6. The applicant now seeks a re-hearing of the writ petition, which is not legally permissible. It would not be possible for the Court to re-write the order by exercising review jurisdiction. We are therefore of the view that the applicant has not made out a case for review.

7. In the upshot, we dismiss the review application. No costs.

(SATISH K. AGNIHOTRI, J.) (K.K. SASIDHARAN, J.)
28 January 2016

SATISH K.AGNIHOTRI,J.

and

K.K.SASIDHARAN,J.

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