THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.5614 OF 2010

ORDER:

The present revision petition, under Article 227 of the Constitution of India, is preferred assailing the order, dated 22.07.2010, passed in O.A.No.56 of 2009 by the A.P. Co-operative Tribunal at Vijayawada, whereby and whereunder, the said appeal was dismissed confirming the order passed by respondent No.2 herein holding that the revision petitioners were entitled to Rs.1,21,540/- as against their claim of Rs.3,36,305/-.

2. Heard Sri K. Sita Ram, learned counsel for the revision petitioners, and Smt. Bobba Vijaya Lakshmi, learned counsel for respondent Nos.1 to 3.

3. Perused the order under challenge and the material on record.

4. The revision petitioners obtained housing loan to a tune of Rs.20,00,000/- from respondent No.1 – Bank. Since they committed default in repayment of loan amount, the respondent – Bank has referred the matter to the Arbitrator to realise the loan amount. The Arbitrator passed award, dated 16.10.2002. Aggrieved by the same, the revision petitioners preferred O.A.No.89 of 2006 before the A.P. Co-operative Tribunal, Vijayawada. The Tribunal, by order, dated 30.07.2008, remanded the matter with a direction to respondent No.1 to refer the matter to the Arbitrator to calculate the interest as per the

terms and conditions of the loan agreement and to pass award accordingly. Pursuant thereto, respondent No.2 herein passed order, dated 11.07.2009, in Claim No.11/2009-10 holding that the revision petitioners were liable to pay penal interest also at 2% per annum over and above the stipulated interest at 18.5% per annum and when the amount paid by the revision petitioners was verified with the calculation done by him, he found that the revision petitioners were entitled to Rs.1,21,540/-. In paragraph No.6 of the order, dated 11.07.2009, respondent No.2 has referred to the terms and conditions of the loan agreement. In paragraph No.10, referring to item No.02 of the Mortgage Deed, dated 16.05.2000, held that respondent No.1 – Bank was entitled to claim interest and penal interest i.e., 18.5% + 2%, equivalent to 20.5%, on the entire outstanding loan amount if three installments became over due and if the loan account is closed before preferring Arbitration Claim and, according to condition No.5 of the loan agreement, respondent No.1 – Bank has right to collect 2% penal interest on all over due installments in addition to the normal rate of interest.

5. Aggrieved by the said order, when the revision petitioners approached the Co-operative Tribunal by preferring the present O.A.No.56 of 2009, the Tribunal, having found from the loan ledger abstract that nine instalments were over due, by the order under challenge, dated 22.07.2010, confirmed the order passed by

respondent No.2 directing respondent No.1 - Bank to refund excess amount of Rs.1,21,540/-.

6. From the above, it is clear that the revision petitioners committed breach in payment of installments and more than three installments became over due. Hence, the revision petitioners were liable to pay penal interest at 2% per annum in addition to the regular interest at 18.5% per annum. Thus, the difference between the amount claimed by the revision petitioners and the refund ordered accounts for 2% penal interest amount. In the petition, though, it is stated that excess amount was collected by respondent No.1 - Bank, but the petition is silent as to the number of over due installments and whether the revision petitioners did commit any breach of terms and conditions of the agreement. Therefore, there is absolutely no merit in the revision petition.

7. Accordingly, the revision petition is dismissed. Miscellaneous Petitions, if any, pending in this revision petition, shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

September 23, 2016.
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