IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

223 CWP No. 24968 of 2014 (O&M)
Date of decision:-18.02.2016

Subhash Thukral

....Petitioner

Versus

The Appellate Authority and others ....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Tushar Sharma, Advocate,
for the petitioner.

Mr. Deepak Suri, Advocate,
for respondent No. 2

Ms. Harpreet Kaur, Advocate,
for respondents No. 3 to 5.

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RAJESH BINDAL, J.

The petitioner has filed the present petition impugning the communication dated 12.08.2014 (Annexure P-16), vide which the complaint filed by the petitioner before the Banking Ombudsman, Chandigarh was dismissed on the ground that the matter in issue was sub-judice. The petitioner preferred an appeal against the order passed by the Banking Ombudsman to the Appellate Authority, which was held to be not maintainable vide communication dated 28.10.2014 (Annexure P-20).

Learned counsel for the petitioner submitted that the Ombudsman failed to appreciate the facts of the case. The matter was neither sub-judice nor decided by any Court. In fact, the civil suit was filed by Ram Lal and Ajit Kumar, raising issue regarding entitlement of certain amounts including the amount lying in the FDRs in the name of Leela Wati, mother of petitioner No. 1, therein the matter in dispute was settled in RSA No. 1047 of 1998, titled as Ram Lal and others Vs. Gian Chand and others, decided on 30.01.2014 vide which the petitioners were held entitled to get the amount of FDRs, including interest accrued thereon. As during the pendency of the civil litigation, the bank had been restrained from encashing the FDRs, after the dispute was settled, the principal amount in the FDRs including some interest was paid to the petitioners. However, the interest for the entire period the amount remained with the bank was not paid. The petitioner preferred complaint to the Ombudsman, which was dismissed as not maintainable. The submission is that the issue before the civil Court was altogether different as the same was only regarding entitlement of the amount lying with the bank. The dispute was not pertaining to interest. There was no litigation with the bank. The bank had been impleaded as party merely for the reason that the amount was lying in the FDRs with the bank.

Learned counsel for the bank sought to justify the non-grant of interest to the petitioner, referring to the RBI guidelines, however, that is on merits. She could not address any arguments regarding maintainability of the complaint before the Banking Ombudsman.

Learned counsel for respondent No. 2 submitted that keeping in view the fact that the issue before the civil Court was not the dispute raised by the petitioner with the bank pertaining to the amount of the interest, the impugned orders passed by the Banking Ombudsman and the Appellate Authority be set-aside and the matter may be remitted back for fresh consideration on merits.

After hearing learned counsel for the parties and considering the stand taken, the impugned orders passed by the Banking Ombudsman and the Appellate Authority are set aside. The matter is remitted back to the Banking Ombudsman, to be decided on merits.

The parties are directed to appear before the Banking Ombudsman, Chandigarh on 18.03.2016.

(RAJESH BINDAL)
JUDGE

18.02.2016
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