IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1743 of 2015
In
Civil Writ Jurisdiction Case No.6835 of 2015

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1. Surendra Kumar Singh S/o Late Harbansh Narain Singh
2. Sangita Singh W/o Surendra Kumar Singh Both Residents of Mohalla Dhanpura, P.S. Ara, District Bhojpur, at present 401 Laxmi Apartment, Rai Ram Briksha Path, Nehru Nagar, P.S. Patliputra, District Patna-13.

... ... Appellant/s

Versus

1. The State Bank of India, a Body Corporate, constituted under State Bank of India Act, 1955, having its Corporate Centre at Madamcama Road, Nariman Point, Mumai-400021 and its local Head Office at Gandhi Maidan, Patna-800001 and amongst one of its branches known as State Bank of India, Ara Branch, Bhojpur represented by Assistant General Manager.
2. The General Manager, State Bank of India, Judges Court Road, Patna.
3. The Deputy General Manager, State Bank of India, Judges Court Road, Patna.
4. The Assistant General Manager, State Bank of India, Ara Branch, District Bhojpur.
5. The Chief Manager, State Bank of India, Ara Branch, District Bhojpur.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mahesh Narain Parbat Sr. Advocate Mr. Sanjay Kumar Jha Advocate
For the Respondent/s	:	Mr. Suresh Prasad Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 11-09-2017

Heard learned senior counsel for the appellants and learned counsel, representing the Bank.

The appellants happened to be the writ petitioners, who being aggrieved by a communication, vide letter, dated 02.04.2015, as contained in Annexure - 14 to the writ application, moved this Court for quashing of the said communication.

By the impugned letter the respondent-bank called upon the petitioners-appellants to make payment of balance amount of Rs. 2,97,107/-, which they were held to be liable under the One Time Settlement Scheme (hereinafter referred to as "OTS" for short).

The learned senior counsel appearing on behalf of petitioners-appellants raised an issue referring to the provisions of OTS and contends that the petitioners were entitled for 30 per cent of deductions out of the sum of Rs. 9,90,357.68, which was the amount due to the Bank as on 31.03.2014 and which was under settlement. The learned senior counsel further submits that the cut-off date under the Scheme was 31.03.2014. Whatever was the balance amount in the Advance Under Collection Account (hereinafter referred to as "AUCA" for short), the petitioners were entitled for the benefit of 30 per cent deductions from the said amount.

On the other hand learned counsel, representing the Bank submits that in fact the Bank has been more kind to the petitioners-appellants in entertaining their application for settlement under the Scheme even though on contest before the Debts Recovery Tribunal, the Bank had obtained a decree in the sum of Rs.

20,51,682/- and the sum was under realization in a recovery proceeding. The petitioners were liable for the decreetal amount. But considering the policy decision of the Bank to reduce the NPA and increase its worth the petitioners were allowed the benefit of the Scheme.

Admittedly, the petitioners-appellants agreed for the said payment of Rs. 9,90,357.68 and thereafter paid a sum of Rs. 2,00,000/-. But then the petitioners failed to pay the balance amount within the stipulated 60 days period. Still the amount paid later on has been adjusted and the petitioners-appellants have been called upon to pay the balance amount of Rs. 2,97,107/-.

The submission of learned counsel representing the Bank is that the demand of petitioners-appellants for a deduction of 30 percent from the amount lying in the AUCA cannot be permitted as it would amount giving the benefit twice to the petitioners-appellants, which will be contrary to the Scheme.

We have considered the submissions made at the bar and have also gone through the records. The Learned Single Judge has having taken note of the submissions made on behalf of the petitioners as well as on behalf of the Bank has rightly come to a conclusion that the outstanding amount as on 31.03.2014 after deducting the receipt of Rs. 2,00,000/- should be Rs. 7,90,357/-

and the petitioners having deposited Rs. 2,38,000/- on 31.12.2014, i.e., 30 per cent of the said amount, was liable to pay the balance amount as per Clause 3 of the OTS.

We are in agreement with the submission made on behalf of the Bank that the benefit of 30 per cent deductions from the balance amount as on 31.03.2014 in the present case cannot be given, because the said benefit has already been provided to the petitioners while calculating the said amount of Rs. 9,90,357.68, which was ultimately transferred to AUCA.

We are satisfied that there is no illegality or infirmity in the order passed by the Learned Single Judge and no interference is warranted in appeal.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	12.09.2017
Transmission Date	