

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO.4289 OF 2011

Vasant S/o Govind Koke ... Petitioner.

Versus

The Ahmednagar District
Central Cooperative Bank
Ltd., and others. ... Respondents.

...
Mr.Vijay R.Autade, advocate holding for
Mr.K.B.Autade, advocate for the petitioner.
Mr.N.V.Gaware, advocate for Respondent No.1.
...

CORAM : S.V.GANGAPURWALA, J.

Date : 20.04.2017.

PER COURT :

1. Heard.

2. The learned counsel for the petitioner submits that the present petition is filed challenging the award passed by the Arbitrator only to the extent of grant of interest at the rate of Rs.18% p.a. which is even contrary to the

contractual rate of interest. The learned counsel submits that it is not the case that petitioner is a chronic defaulter. After availing the loan till this date, the petitioner has deposited almost an amount of Rs.30,00,000/- (Rupees thirty lacs) with the Respondent. According to the learned counsel, the award granting Rs.18% p.a. interest is beyond the contractual rate of interest. The said condition is onerous.

3. Mr.Gaware, learned counsel for the Respondent disputes the statement that petitioner has deposited about Rs.30,00,000/- (Rupees thirty lacs)and states that the petitioner till date has deposited Rs.19,78,292/- (Rupees nineteen lacs seventy eight thousand two hundred ninety two). It is for the parties to settle the account. Learned counsel further submits that it is a compromise award and the petitioner has agreed to all the terms of the agreement, however, on instructions from the Respondent-bank submits that if the petitioner is ready to pay the amount expeditiously then the Bank would give remission

in interest and it would charge interest at the rate of Rs.12.5% p.a.

4. It is a compromise award. As the Bank considering into the account bonafides shown by the petitioner has agreed to reduce the rate of interest to 12.5% p.a., it would be appropriate for the petitioner to show his readiness and willingness to deposit the amount within stipulated period.

5. In light of the above, I pass the following order :

a) The award dated 3.8.2006, passed by the Judge, Cooperative Court, Ahmednagar, is modified to the extent that the Bank will be entitled to recover the amount of Rs.12,29,768-17 with interest on the sum claimed in the suit at the rate of Rs.12.5% p.a. instead of 18% p.a. The petitioner shall deposit Rs.5,00,000/- (Rupees five lacs) with the Respondent-bank within six (6) weeks from today and shall deposit remaining amount within two (2) months thereafter. I have

not considered the tenability of the present Writ Petition in assailing the said judgment considering the consensus amongst the parties.

b) The amount deposited by the petitioner in this Court is allowed to be withdrawn by the Respondent-bank along with accrued interest if any.

c) The Writ Petition is disposed of. No costs.

(S . V . GANGAPURWALA, J .)

asp/office/wp4289.11

