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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1492/2017

RAJVIR SINGH ..... Petitioner

Through Ms. Pinki Talukdar, Advocate.

versus

THE DELHI STATE COOPERATIVE BANK LTD. ..... Respondent

Through Nemo.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% **20.02.2017**

CM No. 6821/2017

Exemption application is allowed, subject to all just exceptions.

W.P.(C) No. 1492/2017

Rajvir Singh had taken loan of Rs.61,000/- on 26th February, 2004 from the Delhi State Cooperative Bank Limited. The loan was repayable in three years.

2. The loan was not repaid and accordingly arbitration proceedings were initiated under Section 71 of the Delhi Cooperative Societies Act, 2003 (Act, for short) and award dated 6th December, 2013 has been passed by the Arbitrator. Copy of the said award has not been placed on record in this writ petition.

3. The petitioner thereafter filed Appeal No. 125/2014 under Section 112 of the Act, which stands dismissed by the impugned order dated 28th July, 2016.

4. The contention of the petitioner is that he was a conductor and the Delhi Transport Corporation, his employer, or the Cooperative Bank should have ensured that the deductions were made from his salary for repayment of the loan.

5. We are not inclined to accept the said submission. It is for the debtor to make the payment to the creditor and law does not require that the creditor must run after the debtor for recovery of the loan amount and interest. The petitioner was paid his salary and was aware that no deduction was being made on account of the loan instalments. This being the position, the petitioner cannot claim that interest as payable in terms of the contract, was/is not recoverable. The petitioner has used and utilized the loan amount. He has agreed to pay interest @ 14% per annum, plus 1% penal interest in case of default. The interest is payable in law, and should be paid.

6. Learned counsel for the petitioner submits that deduction @ Rs.15,000/- per month is being made from the salary of the petitioner. This is not the subject matter of the impugned order dated 28th July, 2016. In case the petitioner has any grievance on account of excessive deduction contrary to law from the salary, it will be open to the petitioner to raise the said issue before the Recovery Officer.

7. No other plea or contention is raised.

8. The writ petition for the aforesaid reasons is dismissed, with no order as to costs.

SANJIV KHANNA, J.

FEBRUARY 20, 2017/VKR **CHANDER SHEKHAR, J.**