IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.540 of 2017
In
Civil Writ Jurisdiction Case No.9437 of 2016

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1. The State Bank of India, Madame Cama Road, Mumbai, 400021.
2. The Chief General Manager, State Bank of India, Local Head Office, West of Gandhi Maidan, Patna- 800001.
3. The Branch Manager, State Bank of India, Court Campus Branch, Motihari, District: East Champaran, PIN: 845401.
4. The Authorised Officer, State Bank of India, Motihari Court Campus Branch, Motihari, District: East Champaran, PIN: 845401
5. State Bank of India, SARB Patna Branch, through its Chief Manager, State Bank of India, West of Gandhi Maidan, Patna-800 001.

... ... Appellants

Versus

1. M/s Hind Drug Distributors, a Partnership Firm, Constituted under India Partnership Act through its partners.
2. Parveen Kumar, Son of Sri Mahesh Thakur,
3. Binod Kumar, Son of Sri Dhrub Narain Rai,
4. Mahesh Thakur, Son of late Satya Narain Thakur,
5. Dhrub Narayan Rai, Son of late Magani Rai, All residents of Mohalla: Agarwa, P.O: Motihari, P.S: Motihari Town, District: East Champaran.
6. The State of Bihar, through District Magistrate East- Champaran, Motihari.
7. The District Magistrate, East Champaran, Motihari.

... ... Respondents

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Appearance :

For the Appellants	:	Mr. Kaushalendra Kumar Sinha, Advocate
		Mr. Binod Bihari Sinha, Advocate
		Mr. Amarjeet Choudhary, Advocate
For the Respondents	:	Mr. Nand Kishore Singh, Advocate
		Mr. Jitendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 19-06-2018

Heard counsel for the Bank as well as the private respondents.

The appeal has been preferred against the order dated 22.07.2016 passed by the learned single Judge, who has exonerated the private respondent from making further payments of outstanding dues against the loan granted by the Bank and which became NPA.

From a reading of the narration of facts of the impugned order, it seems that a SARFAESI proceeding was initiated for non-payment of the outstanding dues, which culminated into an order on 21.02.2013 passed in S.A. No. 211 of 2012 by the Debts Recovery Tribunal, Patna. The final outstanding worked out for settlement of the outstanding dues was fixed as Rs.24,10,587.00. The bank had also waived off an amount of almost Rs. Ten lakhs and odd as part of the final settlement. The direction passed by the Debts Recovery Tribunal was to pay the total amount in three equal installments within a period of three months.

Admitted position is that after the initial payment of a token amount of Rs. Five lakhs on 22.03.2013 and then Rs. Three lakhs on 09.04.2013, the balance amount of the outstanding dues was not settled by the private respondent. The major payment finally was made after almost three years on 17.03.2016.

Since there was a delay of more than three years and the private respondent did not honour the direction and the order passed by the Debts Recovery Tribunal by adhering to the time frame, the Bank has now objected to the order passed by the learned single Judge by showing that the interest component, which has accumulated over the period of time due to non-settlement of the total outstanding dues, cannot be wished away or waived by the learned single Judge by taking a view that since a sum of Rs.24,30,000.00 has already been paid and the Bank accepted the said amount without any demur, therefore, the account should stand closed and satisfied.

The learned counsel representing the Bank is correct in making his submission and objection against the impugned order on the ground that the private respondent cannot draw advantage of his own wrong if he did not close the account by making payments within the time frame fixed by the DRT and the settlement if at all of the fixed amount by the DRT was made after more than three years of passing of the order, the interest component, which accumulated in the meantime, cannot be wished away.

We are of the view that the Bank cannot refuse any payment which is made by a loanee of outstanding amount, they have obligation to receive the said amount as and when it is paid by a loanee. But merely because they have not specifically said that it is a final settlement against the outstanding dues, it does not mean that the interest component and liability of the loanee to pay for delayed payment for almost three years cannot be saddled upon him.

To that extent the learned single Judge seems to be in error by waiving or directing the Bank to issue the No Dues Certificate on the basis of payment of Rs.24,30,000.00 despite a delay of more than three years, was unwarranted. The impugned order dated 22.07.2016 to that extent is quashed. The appeal is allowed.

As a consequence of the above order, the order of quashing of O.A. No.410 of 2015 by the learned single Judge stands set aside.

An oral prayer was made for grant of certificate under Article 134-A of the Constitution of India, we are of the opinion that no significant question of law arises for which a certificate as prayed for is required to be granted. The prayer is refused.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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