IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10229 of 2017
Date of decision: 15.5.2018

Smt.Bedo Devi

…Petitioner

Versus

State Bank of India and another

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr.Ramesh Goyat, Advocate for the petitioner.

Mr.A.K.Khungar, Advocate for the respondents.

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<u>Rakesh Kumar Jain, J.</u>

The petitioner has prayed for the issuance of a writ in the nature of mandamus for seeking a direction to the respondent-Bank to make the payment of interest on the amount of ₹10,73,838.69P lying in her savings Bank Account No.1073445503 except for the period during which there was an injunction of the Court.

In brief, Bedo (Petitioner) and her husband Ram Kishan (since deceased) had opened a joint saving bank account No.1073445503 in State Bank of India, Ganaur Branch, Sonepat in the year 2004. Ram Kishan died on 24.10.2006. At that time, ₹10,73,838.69.P were lying in the said savings bank account. The petitioner who was the surviving subscriber of the account was otherwise entitled to operate the account but the respondents did not allow her to operate the account on an alleged complaint made by Mukesh Devi, widowed daughter-in-law of the petitioner. It is submitted that there was no injunction from any Court but the respondents did not allow the petitioner to operate the said account. Therefore, the petitioner filed a complaint under Section 12 of The Consumer Protection Act, 1986 before the District Consumer Disputes Redressal Forum, Sonepat. The said complaint was allowed vide order dated 24.4.2009, directing the respondent-Bank to allow the petitioner to operate her aforesaid bank account specifically observing that there is no injunction order qua the said bank account and also held her entitled to ₹2000/- on account of litigation expenses. Though the order of the District Consumer Disputes Redressal Forum, Sonepat was appealable in terms of the provisions of the Act but Mukesh Devi alongwith her minor children preferred to file a suit for declaration with consequential relief of permanent injunction in which injunction was granted by the Civil Court on 2.5.2009, restraining respondent No.2, from releasing the amount to the petitioner. However, the said civil suit was dismissed on 23.5.2012. There was no further order of injunction produced by Mukesh Devi but still the Bank did not comply with the order dated 24.4.2009 passed by District Consumer Disputes Redressal Forum, Sonepat allowing the petitioner to operate the bank account. The petitioner filed a representation to the Bank and her representation did not put any effect upon the respondents, she filed **CWP No.3754/2016 titled as Bedo Devi Vs. State Bank of India and another** which was decided on 25.2.2016 directing the respondents to take a final decision on the legal notice dated 9.12.2015 within a period of three months. The said legal notice was still not decided, therefore, the petitioner filed COCP No.1492 of 2016. In the contempt proceedings, the respondents informed the Court that an amount of ₹13,60,000/- has been released to the petitioner on 10.10.2016 and as such, the contempt petition was rendered infrucutous vide order dated 29.11.2016.

However, it was observed by the Court that the petitioner would be at liberty to avail alternate remedy. The petitioner gave another legal notice dated 14.12.2016 asking the respondents to pay the interest to be calculated from 21.12.2006 to 10.10.2016. The said representation was not decided, therefore, the petitioner has approached this Court by way of the present writ petition.

After notice, respondents have put in appearance and it has been submitted that amount due to the petitioner has already been paid, therefore, no cause of action survives to the petitioner. It is also submitted by the respondents that Bank had restrained the petitioner from operating her bank account on the complaint made by her daughter-in-law and because of the injunction order dated 2.5.2009.

I have heard learned counsel for the parties and have examined the record carefully.

The issue in this case is as to whether the petitioner is entitled to interest for the period during which there was no injunction? There is no dispute that the amount lying in the savings bank account belongs to the petitioner. There is also no dispute that there was no injunction of any Court till 2.5.2009. It is also not in dispute that the petitioner was not allowed to operate her bank account till she filed the contempt petition before this Court. The respondents had offered to pay ₹13,60,000/. The net result of the aforesaid observation is that the petitioner has been deprived of for not only to operate her bank account but also has not been paid the component of interest which had accrued on the amount lying in her bank account at the regular intervals.

I agree with the submission made by the counsel for the Bank that the Bank could not have allowed the petitioner to operate her bank account because of the injunction order. In this regard, counsel for the petitioner is also candid enough to yield to the submission made by the counsel for the respondents as he also knows that whether rightly or wrongly an injunction is there which is not vacated, would operate with full force.

Thus, in my considered opinion, the Bank is liable to pay interest to the petitioner from 21.12.2006 to 2.5.2009 and then from 23.5.2012 to 10.10.2016. The writ petition is hereby allowed and a direction is issued to the respondent to make payment of interest to the petitioner as per bank rate which was prevalent rates on the amount of fixed deposit because during this period, the petitioner has not been allowed to operate the account and the amount was basically remained in possession of the bank for their use and purposes. Needful shall be done within a period of one month from the receipt of certified copy of this order. It is needless to mention here that the interest shall be paid to the petitioner after deducting the interest already paid, if any.

May 15, 2018 **(Rakesh Kumar Jain)**
Meenu **Judge**

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No