203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2404 of 2016 (O&M)
Date of Decision: 11.12.2018.

Jain Paint and Hardware Store and another

... Petitioner

Versus

ING Vysya Bank Limited and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Sanjiv Gupta, Advocate,
for the petitioners.

Respondents *exparte* vide order dated 28.09.2016.

JITENDRA CHAUHAN.J.

The present civil writ petition has been filed by the petitioners under Articles 226/227 of the Constitution of India for quashing the recovery of Rs.7,02,550/- effected from the petitioner on account of closure of account and interest thereon.

It is contended that the petitioner No.1 had availed cash credit limit of Rs.1.25 crore for two years from the respondents Bank. In the month of October, 2012, the petitioners requested for enhancement of the limit to the extent of Rs.2.00 crore and submitted all the requisite documents i.e audited balance sheets, VAT returns along with income tax returns. The limit was not enhanced but valuation charges of Rs.2400/- were deducted from the account of the petitioners. When no response was received from the respondents, the petitioners obtained cash credit limit of Rs.2.00 crore from Union Bank of India, Dharampura Bazar, Patiala and on 13.02.2013 the Union Bank of India remitted an amount of Rs.1.25 crore in the account of the respondents Bank on behalf of the petitioners. On 20.02.2013 the respondents Bank started demanding fore-closure charges of Rs.702550/- and did not allow the petitioners to operate the other account.

It is further contended that the cash credit limit was used by the petitioners from May, 2011 to 13.02.2013 and the limit was to expire in May, 2013. An interest of Rs.12,12,277/- was paid from 31.05.2011 to 30.03.2012 and further interest of Rs.11,74,367/- was paid from 01.04.2012 to 28.02.2013. Since the petitioners had discharged their liability before the cut off date and as such the fore-closure charges imposed are arbitrary and unjust. The entire amount stood paid by the Union Bank of India vide communication dated 13.02.2013 and nothing was outstanding against the petitioner, therefore, the petitioners are entitled to refund of Rs.7,02,550/- along with interest.

A notice of the petition was issued to the respondents. However, despite service, the respondents did not cause representation, therefore, vide order dated 28.09.2016, they were proceeded against *ex* *parte*.

Heard.

From the record, it is established that the petitioners had availed cash credit limit of Rs.1.25 crore for two years from the respondents Bank. The petitioner had requested for enhancement of the cash credit limit to the tune of Rs.2.00 crore. However, finding no response from the respondents-bank, the petitioner approached another bank i.e. Union Bank of India for the same purpose. The latter bank acceded to their request and remitted an amount of Rs.1.25 crore in the account of respondent No.1-bank. This Court finds itself in agreement with the submissions raised by the learned counsel for the petitioners that once the entire payment had been made till 28.02.2013, the respondents-bank were not justified in deducting an amount of Rs.7,02,550/- from the account of the petitioner towards foreclosure charges.

Consequently, the present civil writ petition is allowed. The respondents are directed to directed to refund the amount of Rs.7,02,550/- along with interest @ 6% per annum from the date of filing of the writ petition till its actual realization to the petitioners within a period of two months from the date of receipt of certified copy of the judgment.

However, in case the respondents are able to make out a case that the report qua service upon them is against record, the respondents will have the liberty to contest the present petition in case the necessary application is filed within four weeks of the receipt of the certified copy of the order, however, the same shall be subject to payment of costs in favour of the State Legal Services Authority, Punjab.

11.12.2018. **(JITENDRA CHAUHAN)**
SN **JUDGE**

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