IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO.3584 OF 2018

M/S VIVEK DAL MILL, THROUGH ITS PARTNER - VIMALCHAND KASTURCHAND JAIN
VERSUS
LOKVIKAS NAGARI SAHAKARI BANK LTD. AND OTHERS
...
Advocate for Petitioner : Shri Deelip Bankar h/f.
Shri Rahul G.Joshi and Shri Hashmi Taufeeque Ahmed
Advocate for Respondent No.1 : Shri V.D.Sapkal h/f.
Shri Kamlakar J. Suryawanshi
...

CORAM : P.R.BORA, J.
DATE: 1st August, 2019

PER COURT:-

1. In the present Writ Petition, it is the main grievance raised by the petitioner that the respondent Bank is attempting to recover arrears of loan from him in the manner, contrary to the certificate issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as 'the Act of 1960') by the Deputy Registrar of the Co-operative Societies, Aurangabad on 28.11.2011. Vide the said order, the petitioner has been directed to pay the principal amount of Rs.43,43,826/- with interest thereon @ 14% p.a. from 01.05.2011, till the entire said amount is paid. The petitioner is also directed to pay an amount of Rs.10,800/- towards the Court fees and the other expenses.

2 The petitioner is present before the Court. The Officers of the

respondent Bank are also present before the Court.

3. It is the contention of the petitioner that while calculating the interest, the Recovery Officer has charged it contrary to the manner provided in the certificate issued by the Deputy Registrar. More specifically, it is the contention of the petitioner that compound interest has been charged though the Deputy Registrar has directed to recover the amount by charging simple interest.

4. During the course of hearing of the present petition, several attempts were made for settlement of the dispute amicably. Initially, one chart was filed on record by the petitioner, which according to his contention was prepared by the Chartered Accountant evidencing the arrears of the loan towards him. The said chart was seriously disputed by the respondent Bank.

5. Having regard to dispute about the calculations made, this Court had directed the Branch Manager, State Bank of India, High Court Branch, to calculate the arrears as per the recovery certificate issued under Section 101 of the Act of 1960, and submit his report. Accordingly, the report was submitted; but the same was disputed by the respondent Bank. Thereafter, the respondent Bank also furnished on record a revised chart prepared by it with assistance of Shri Anant N.Katkade, Recovery Consultant (DRA) and the same was

placed on record. It is marked as 'X' for identification. Certain disputes were raised by the petitioner as about the calculations made in the said statement. It is the matter of record that the respondent Bank was initially insisting for the arrears of loan to the tune of Rs.18,51,758/- (Page 94 of the paper-book). As mentioned above, the respondent Bank has now submitted a revised chart. In the revised calculations now submitted by the respondent Bank, the arrears of loan are brought down to Rs.11,98,289/-. The learned counsel appearing for the respondent Bank was fair enough in submitting that earlier calculations were not perfect and now help of an expert person is taken by the Bank and the calculations are placed on record strictly as per the recovery certificate issued by the Deputy Registrar. The only dispute which is worth considering in respect of the chart presented is that the interest could not have been charged on the amount of Court fees or amount of insurance paid by the Bank for and on behalf of the petitioner, otherwise all the calculations appeared to be broadly correct.

6. During the course of the argument, entire endeavour was that the matter shall be settled amicably. This Court was also of the opinion that there must be some fair solution within the four corners of law. In the circumstances, the learned counsel appearing for the respondent Bank, on instructions, made a statement that the respondent Bank will give concession to the extent of Rs.1,00,000/-

in the arrears, which are shown in the statement prepared by Shri Anant N.Katkade, Recovery Consultant (DRA) (Exh.'X'). The petitioner was insisting for some more concession, however, when ultimately it is revealed that the respondent Bank may not be in a position to give any more concession, the learend counsel for the petitioner has requested for passing appropriate order considering the statement made by the learned counsel appearing for the respondent Bank. The further request made by the petitioner is to provide adequate period for depositing the said amount, which may be ultimately determined by this Court, payable from the petitioner to the respondent Bank.

7. After having considered the submissions and material on record, by consent of the parties to the petition, the following order is passed which would certainly meet the ends of justice.

ORDER

I) The petitioner shall pay the amount of Rs.10,98,289/- to the respondent Bank towards full and final settlement of his loan account in lumpsum or in installments but in any case before 30.09.2019.

II) No further interest would liable to be charged on the aforesaid amount, if paid on or before 30.09.2019.

III) If the amount as aforesaid is paid by the petitioner before the stipulated date i.e. 30.09.2019, the respondent Bank shall forthwith issue 'No Dues Certificate' in favour of the petitioner and also release his properties attached towards the repayment of the said loan and also release his bank accounts, which are frozen under the orders of the Recovery Officer.

IV) If the petitioner fails to pay the amount as aforesaid within the stipulated period, the respondent Bank shall be at liberty to execute the Certificate issued in its favour under Section 101 of the Act of 1960.

V) In view of the order passed as above, the observations made by this Court in the order passed on 14.06.2019, against the District Deputy Registrar, shall be ignored.

(P.R.BORA)
JUDGE

SPT