IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.4587 OF 2019
IN WP/9489/2018
WITH
WRIT PETITION NO.9489 OF 2018

NANABHAU PANDURANG BODAKHE AND OTHERS
VERSUS
THE AHMEDNAGAR DISTRICT CENTRAL CO OPERATIVE BANK LTD AHMEDNAGAR

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Advocate for the Applicants / Petitioners : Shri Kasar Rajendra S.
Advocate for the Respondent : Shri S.P.Salgar h/f Shri N.V.Gaware.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th April, 2019

<u>Per Court</u>:

1 By the Civil Application, the Applicants/ original Petitioners are praying for leave to amend the petition. The proposed paragraph numbers 10-A and 10-B pertain to the order of the Cooperative Court dated 31.03.1999 and the order dated 30.10.2012 delivered in Special Darkhast No.51/2000.

2 The Writ Petition is filed on 08.07.2018 for challenging the judgment of the Cooperative Court dated 06.07.2005 passed in Dispute No.514/2004 and the order of the Civil Judge, Senior Division dated 22.11.2016, passed in Regular Darkhast No.235/2012.

3 The learned counsel for the Applicants/ Petitioners submits that the Petitioners are ready to settle the accounts and seek a One Time Settlement. Reliance is placed on the order of this Court (Coram : S.V.Gangapurwala, J.) dated 24.10.2017 delivered in Writ Petition No.4289/2011 in the matter of ***Vasant Govind Koke vs. Ahmednagar District Central Cooperative Bank***.

4 Having perused the said order, I find that a statement was made on instructions from the Bank, which is recorded in the order, that if the Petitioner is ready to pay the amount expeditiously, the Bank would give remission in interest and would charge interest at the rate of 12.5% per annum. This Court, therefore, observed that the Bank will be entitled to recover the amount as per the compromise award with interest at the rate of 12.5% per annum instead of 18% per annum in view of the consent of the Bank.

5 It is settled law that a consenting order is not to be cited unless an identical consent is extended by the litigating sides. It would always be open for the Petitioners to approach the Bank for settlement and cite examples wherein, identically placed guarantors/ borrowers have been granted remission in the rate of interest and seek parity on the principle of comparable cases.

6 At this juncture, the learned advocate for the Respondent Bank submits, on instructions from Shri Yashwant Arjun Lavate, Senior

Officer of the Bank, that the writ petition filed by the Applicants/ Petitioners can be disposed of since the Bank is agreeable to reduce the interest rate from 18% per annum to 13.5% per annum.

7 The learned advocate for the Petitioners submits that he is agreeable.

8 The learned advocate for the Respondent Bank has collected further instructions from the officer present in the Court that the Petitioners would be at liberty to seek similar relief with regard to the subject matter of the judgment and award dated 31.03.1999 passed by the Cooperative Court in Dispute No.161/1997. It is further stated that the Civil Application as well as the Writ Petition can be disposed of in these terms and the impugned order of the Cooperative Court dated 31.03.1999 and the order dated 06.07.2005, would stand merged in view of these statements made on consent.

9 In view of the above, the Civil Application as well as the Writ Petition stand disposed off. The impugned orders passed by the Cooperative Court dated 31.03.1999 and 06.07.2005 shall stand merged/ modified in view of the consent statements made above.

10 The learned advocate for the Respondent Bank submits that if the entire outstanding loan amounts are cleared by the Petitioners on or before 08.07.2019, the matter would be settled. Any failure to deposit even a portion of the said amount till 08.07.2019, would result in the

consent of the Bank being recalled and all concessions granted by the Bank shall stand withdrawn and the Bank shall proceed to recover the said amount with interest @ 18% per annum. The learned advocate for the Petitioners is agreeable to these terms.

11 It is made clear that the request of the Petitioners having been accepted by the Bank with the concession of reducing the interest rate, would not lay down any precedent that this order shall not be cited before any Court, Authority or Tribunal in any case, either filed by the Petitioners or in any other proceedings.

kps **(RAVINDRA V. GHUGE, J.)**