IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.925 of 1999 (O&M)
Decided on : 16.01.2019

Punjab National Bank ...... Petitioner

Versus

M/s Mohina Properties Pvt. Ltd. & ors. ...... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arvind Rajotia, Advocate
for the petitioner.

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Manjari Nehru Kaul, J.

Prayer in the present writ petition filed under Articles 226/227 of the Constitution of India is for issuance of writ in the nature of certiorari for quashing and setting aside the order dated 22.07.1998 (Annexure P-2) to the extent of reduction of the rate of interest from 22.75% per annum to 19.5% with yearly rests passed by learned Debt Recovery Appellate Tribunal, Mumbai in appeal filed by respondent No.1 herein.

2. The petitioner-bank had sanctioned a term loan to the tune of ₹ 6 lakhs to respondent No.1, which was to be payable in 40 monthly installments. Respondent No.1, however, could not maintain the financial discipline and defaulted in repayment leading to the filing of civil suit at Civil Court, Chandigarh by the petitioner-bank for recovery of ₹ 17,09,250/-, which was due as on 23.11.1992 along with costs of civil suit and future interest @ 22.75% per annum. After commencement of Recovery of Debts Due to Banks Act, 1993, the aforesaid civil suit was

transferred to Debt Recovery Tribunal, Jaipur (in short 'DRT') on 03.06.1997. The said application was allowed by DRT, Jaipur by holding that the petitioner -bank was entitled for recovery of ₹ 17,09,225/- along with the costs of suit and future interest @ 22.75% per annum with yearly rest.

3. Aggrieved against the order dated 03.06.1997, respondent No.1, herein, filed an appeal before Debts Recovery Appellate Tribunal, Mumabi (in short 'Tribunal'). The said appeal was partly allowed vide order dated 22.07.1998 to the extent of reduction of future rate of interest @ 19.50% per annum with yearly rest. Hence, the present writ petition.

4. Learned counsel for the petitioner submitted that the Tribunal was in error in not allowing the future rate of interest as per the applicable rate of interest on loan account, as per various circulars issued by the bank and in particular the circular dated 12.03.1992 (Annexure P-3). Learned counsel further submitted that DRT, Jaipur had in fact found the petitioner entitled for recovery of amount along with future rate of interest @ 22.75% per annum with yearly rests w.e.f. 25.11.1992 (Annexure P-1). Learned counsel also submitted that the Tribunal thus, acted beyond its jurisdiction in reducing the rate of interest as claimed in the application, on the basis of the clauses incorporated in the agreement between the parties.

5. A perusal of the written statement filed on behalf of respondent No.1 reveals that as per agreement (Annexure R-1) the rate of interest was to be @ 19.5% per annum, hence, the petitioner was not entitled to a higher rate of interest. There was no provision in the agreement for enhancement of penal rate of interest under any circumstances whatsoever and even

otherwise, the rate of interest could not have been enhanced without putting the respondent on notice.

6. After hearing learned counsel for the parties as well as perusing the material available on record, we do not find any illegality or infirmity in the order dated 22.07.1998 passed by the Tribunal and hence, affirm the same.

7. Accordingly, the present petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

16.01.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No