IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL REVIEW No.424 of 2014
Arising out of
Civil Writ Jurisdiction Case No.3469 of 2013

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The Central Bank of India, a Body Corporate Constituted under the Banking Companies (Acquisition and transfer of under takings) Act 1970 having its Head Office at "Chander Mukhi", Nariman Point, Bombay- 400021 and a Branch inter alia at Birla Mandir Road, Bankipore, P.S.- Pirbahore, District- Patna.

... ... Petitioner/s

Versus

1. Bibhuti Narayan,
2. Anil Srivastava, both sons of Late Shambhu Sharan Srivastava, r/o Mohalla Khazanchi Road, P.S.- Pirbahore, District- Patna.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
For the Opposite Party/s : None

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 24-01-2020

Heard Mr. Ajay Kumar Sinha, learned counsel for the petitioner. Earlier notice was issued to the opposite parties no. 2 and 3, who are the heirs of the sole writ petitioner. The same has also been held to be validly served. Despite that, nobody appeared when the matter was taken up and heard.

2. The petitioner seeks review of the judgment and order dated 26.09.2014 passed in CWJC No. 3469 of 2013 by which on the basis of stand taken before the Court on behalf of the petitioner the matter has been held to be concluded between the parties with a direction to issue 'No Dues Certificate' and

also to return the original documents of the petitioner.

3. Learned counsel for the petitioner submitted that the order under review discloses that an impression was created before the Court that by paying Rs.6,81,862.00 by the writ petitioner, the petitioner was ready to conclude the issue. Learned counsel submitted that in terms of an earlier order in the writ petition, the bank was to produce before the Court calculation of the amount, which the writ petitioner was required to pay, according to the petitioner. It was submitted that the then Branch Manager concerned, under some misconception that the Court required calculation at the rate of 16.5% simple interest *per annum* had calculated an amount of Rs.6,81,862.00. However, it was submitted that as per the order of the original Court in Title Mortgage Suit No.378 of 1987 dated 08/20.09.1997, the base amount was Rs. 10,47,330.91 as on 02.11.1998, which is the date of filing of the Execution Case. It was submitted that the Execution Court i.e., the Debts Recovery Tribunal, Patna in Execution Case No. 150 of 1998 (OA) dated 29.3.2011, held that the petitioner was also entitled to receive interest at the rate of 16.5% *per annum* from the date of filing of the execution case till full and final realization.

4. Learned counsel submitted that there was neither

any concession and even the amount, which was agreed before the Court, was a pure miscalculation on the part of the then Branch Manager, who had misconstrued the order of the Court to disclose the due amount.

5. Having regard to the aforesaid, the Court finds that the mater is required to be gone into afresh.

6. As stand has been taken that the amount shown by the Bank is totally erroneous which has not been controverted by the opposite parties as no affidavit has been filed on their behalf, the Court finds that a case for review has been made out.

7. For reasons aforesaid, the judgment and order dated 26.09.2014 passed in CWJC No. 3469 of 2013 stands recalled.

8. As a consequence, CWJC No. 3469 of 2013 stands restored to its original file and number, to be placed before the appropriate Bench, after obtaining permission of Hon’ble the Chief Justice.

9. The application stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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