IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4330 OF 2021

1. M/s Girish Raju Ujawane and Brothers, a partnership firm acting through its partner Shri Harish S/o Raju Ujawane, at Shop No.1, Building No.5, APMC Market, Kalmana Yard, Nagpur – 440008 2. Mr. Harish S/o Raju Ujawane, Aged 41 years, Occ. Business, R/o.9/4, Mittal Enclave, Pardi, Bhandara Road, Nagpur 3. Ramesh S/o Arjunrao Sonkusale, Aged 62 years, Occ. Business, R/o. Plot No.45, House No. 2265/A/45, Sneh Nagar, Near Wardha Road, Nagpur 4. Smt. Mangala Ramesh Sonkusai Aged 55 years, Occ. Business, R/o. Plot No. House No. 2265/A/45, Sneh Nagar, Near Wardha Road, Nagpur	.. Petitioners

Versus

1. Union Bank of India, A banking company duly constituted under the provisions of banking Companies (Acquisition and Transfer of Undertaking) Act. No. V of 1970, having its one of its branches at Dhantoli, Nagpur through Constituted Attorney Shri S. Arvind Kumar Branch Manager. 2. Tahasildar Nagpur, Addressed at Tahasildar Office, Civil lines, Nagpur – 1	.. Respondents

Mr. R. H. Agrawal, Advocate for petitioners.
Mr. M .V. Acharya, Advocate for respondent No.1.
Mr. N. R. Patil, A.G.P. for respondent No.2.

CORAM : SUNIL B. SHUKRE AND ANIL L. PANSARE, JJ.

DATED : 29/11/2021

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard. **Rule**. Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties present before the Court.

(2) For the recovery of the dues of the respondent No.1 Bank outstanding against the petitioners, there was a proceeding pending before Debt Recovery Tribunal, Nagpur bearing O. A. No.87 of 2017, wherein the settlement occurred between the petitioners and respondent No.1 Bank, at the time of National Lok Adalat. The settlement arrived at between the parties was only a one time settlement and as per the terms of the settlement, the dues were to be paid latest by 26/11/2019. The deadline of 26/11/2019 could not be met by the petitioners for some reasons and therefore, they made a request to the respondent No.1 Bank for extending the time for compliance of the terms and conditions of the one time settlement.

The respondent No.1 Bank agreed to do so and extended time for compliance till 15/03/2021, when it had issued a letter dated 04/03/2021. It is an admitted fact that though the Bank extended the deadline, the petitioners could not pay the entire dues as mentioned in the consent decree and therefore, on 09/09/2021, the respondent No.1 Bank finally informed the petitioners that they had cancelled the one time settlement by exercising the right conferred upon the Bank in the consent decree.

(3) According to the learned counsel for the petitioners, on 09/09/2021, the petitioners had deposited with the respondent No.1 Bank 85% of the total outstanding dues and therefore, the Bank ought not to have adopted an adamant attitude in this case and should have agreed to extend further deadline for depositing of the remaining 15% of the outstanding dues in terms of the one time settlement. He also submits that in some other accounts the Bank has accepted such pleas of the borrowers and extended the deadlines in the one time settlement arrived at with those borrowers, but here in this case, the Bank is not doing so and therefore, the Bank has indulged in impermissible discriminatory treatment to the petitioners.

(4) The submissions of the learned counsel for the petitioners are disagreed to by learned counsel for the respondent No.1 Bank and he submits that there was neither any discriminatory treatment given to the petitioners, nor the Bank could be compelled in law to extend the time limit, which is a matter purely between the petitioners and the respondent No.1 Bank and which falls in the realm of contractual law.

(5) Learned Assistant Government Pleader appearing for respondent No.2 submits that an appropriate order be passed, although he submits that in contractual matters, the writ jurisdiction under Article 226 of the Constitution is not available. He also submits that extension of the time limit for repaying of the outstanding amount in accordance with the terms and conditions of the consent decree is something, which is a matter of contract between the parties to the consent decree.

(6) We agree with submissions of learned counsel for respondent No.1 and learned AGP. In such contractual matters, the Writ Court has no role to play and jurisdiction of this Court, as rightly submitted by the learned counsel and learned AGP, under Article 226 of the Constitution cannot be invoked. In such matters, it is not permissible in law for the Court to substitute its will for the will of any of the parties to a contract.

(7) In this case, respondent No.1 Bank after having extended time limit till 15/03/2021, waited for a considerable period of time and it was only on 09/09/2021, that it sent a letter to the petitioners informing that the one time settlement had been cancelled by the respondent No.1 Bank. Such cancellation, is consistent with the power conferred upon the respondent No.1 Bank, in terms of the terms and conditions of the consent decree. When the respondent No.1 Bank has waited for such a long period of time for the petitioners, as late as September, 2021, almost for a period of more than five months from the date of the expiry of the time limit, it could not be said that the respondent No.1 Bank has acted unreasonably in this case. In fact, there was unwritten extension of last date and such unwritten extension given by the respondent No.1 Bank would itself show that respondent No.1 Bank had been quite lenient to the petitioners. Then, if the respondent No.1 Bank has extended time limit for compliance with the terms and conditions of one time settlement on multiple occasions in other cases, no parity can be drawn by any borrower from other cases, as facts of each and every other case are different. The similarity of facts of the other cases with the facts of the present case has not been demonstrated in any manner by the petitioners. Therefore, the argument of discriminatory treatment given to the petitioners would not be available here. On the contrary, as stated earlier, the respondent No.1 Bank has been quite lenient in this case and this itself has shown that respondent No.1 Bank has acted in a reasonable manner. The petitioners are at liberty to once again make an effort to convince the authorities of respondent No.1 Bank about the relief that the petitioners are claiming here.

(8) In the circumstances, we find no merit in the petition. Writ Petition stands dismissed.

Rule is discharged. No costs.

[ANIL L. PANSARE J.] **[SUNIL B. SHUKRE J.]**

KOLHE

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