IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8584 OF 2022

Mrs. Sangeeta Bharat Jain & Anr. … Petitioners
Vs.
Union Bank of India & Ors. … Respondents

Ms. Savita Nangare i/by Ms. Pooja Kharat for Petitioner.
Mr. Jamshed Ansari for Respondent No.1.
Mr. Mohammed Ibraheem, Chief Manager, UBI, Kalbadevi Branch present.
Mr. Amit Yadav, Senior Manager, R.O. South Mumbai, UBI present.

CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.

DATED : 07th SEPTEMBER 2022

P.C. :

1. Ms. Nangare states that Petitioners, as per the undertaking recorded in the order dated 20th July 2022, have paid the sum of Rs.62,00,000/- to Respondent No.1. Mr. Ansari confirms the same.

2. Mr. Ansari also tenders an Affidavit-in-Reply of one Mohammed Ibraheem, Chief Manager of Respondent No.1, affirmed on 7th September 2022, in which Paragraph 8 reads as under :-

> *"8. I say that after making payment of Rs.65,20,000/- between 20th July 2022 and 6th September 2022, a sum of Rs.3,68,407/- as on 31.08.2022 plus legal expenses of Rs.1,91,560/-, aggregating to Rs.5,59,967/- is outstanding as on 31.08.2022. I say that a print out of statement of account from 04.04.2014 to 07.09.2022 showing outstanding as on 31.08.2022 is enclosed herewith as* ***Exhibit-"B"****. I say that the statement of legal expenses till 19.07.2022 is also enclosed herewith as* ***Exhibit-"C"****. I say that this Hon'ble court may pass appropriate order in respect of this outstanding amount of Rs.5,59,967/-. The respondent no.1 will abide by the order pass by this Hon'ble court." (Emphasis supplied)*

Mr. Ansari clarified that this means whatever order the Court passes will be acceptable.

3. Ms. Nangare tenders an Affidavit of one Mitanshu Bharat Jain, Petitioner No.2, affirmed on 7th September 2022, in which Paragraph 8 reads as under :-

> *"8. I say that as per amortization schedule given to the Petitioners at the time of sanction of loan, the total amount payable was* ***Rs.1,70,21,424/- until 2nd April 2024.*** *However, as on* ***3rd September 2022****, the Petitioners have deposited an amount of* ***Rs.1,73,94,775/-*** *to loan account with the Respondent Bank. Therefore, the Respondent Bank has already recovered the future interest beyond April 2024. Hereto annexed and Marked as* ***Exhibit "E" colly*** *is the copy of the said amortization schedule and table of payments made to the loan account."*

4. Therefore, in effect, according to Petitioners, Petitioners have paid more money than what was due and payable. Ms. Nangare states that as per amortization schedule, the total amount payable by 2nd April 2024 would be Rs.1,70,21,424/-, but as on 3rd September 2022, Petitioners have deposited a sum of Rs.1,73,94,775/-. The amortization schedule given by Respondent No.1 is annexed to the Affidavit. The fact that Petitioners have paid a sum of Rs.1,73,94,775/- is not disputed. The proof of payment is also annexed to the Affidavit of Petitioner No.2. Mr. Ansari states that Petitioners have not maintained the amortization schedule and, therefore, Petitioners cannot today come and say that Petitioner has paid more money than what was payable by 2nd April 2024.

5. The indisputable fact is if Petitioners had made the payments as per the amortization schedule, Respondent No.1 would have only got Rs.1,70,21,424/- by 2nd April 2024. As against this, Petitioners have paid a sum of Rs.1,73,94,775/- by 3rd September 2022. Petitioners have also explained the reason for Petitioners' inability to maintain the schedule of payments. Respondent No.1 in the Affidavit of Mohammed Ibraheem, affirmed on 7th September 2022 has said Respondent No.1 will abide by the order passed by this Court.

6. In the circumstances, in our view, since Petitioners have paid, which Respondent No.1 has received, more than what it would have received if Petitioners had maintained the schedule, we direct Respondent No.1 to accept the amount of Rs.1,73,94,775/- as paid in full and final settlement of all amounts payable under the loan account which is the subject matter of this Petition.

7. We would note our appreciation of Mr. Ansari and of Respondent No.1 for agreeing to abide by the orders passed by this Court.

8. Mr. Mohammed Ibraheem, Chief Manager of Respondent No.1, who is present in Court, personally undertakes to hand over all the title documents to Petitioners/Petitioners' representative within one week from today and also issue a 'No Due Certificate'. Undertaking accepted. In any event, this order also can be used as 'No Due Certificate' issued to Petitioners.

9. Mr. Ansari, on instructions of Mr. Mohammed Ibraheem, states that Respondent No.1 will not report to CIBIL anything that would prejudice Petitioners' interest. Statement accepted as an undertaking to the Court.

10. Petition accordingly disposed. No order as to costs.

(A.S. DOCTOR, J.) **(K.R. SHRIRAM, J.)**

MUGDHA M PARANJAPE Digitally signed by MUGDHA M PARANJAPE Date: 2022.09.08 17:53:48 +0530