



W.P.No.26606 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Writ Petition No.26606 of 2022

ICICI Bank Limited
Rep. by its Authorised Officer
Shankar Balasubramanian
No.1, Cenotaph Road
Teynampet
Chennai 600 018.

.. Petitioner

Vs.

1. Rarefield Engineers Private Limited
Rep. by its Managing Director R.Russel Raj
No.104, East Madha Church Street
Royapuram
Chennai 600 013.
Having business at
GB, Bhageeratha Residency
124, Marshall Road
Egmore, Chennai 600 008.

2. Russel Raj

3. Gnana Rani Russal Raj

.. Respondents



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Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records pertaining to the order dated 09.04.2019 passed by the Debt Recovery Appellate Tribunal, Chennai in RA No.157 of 2018 insofar as granting interest at 11% per annum and quash the same.

For the Petitioner : Mrs.Rita Chandrasekar
For M/s. Aiyar and Dolia

ORDER
(Made by the Hon'ble Acting Chief Justice)

This writ petition has been filed challenging the correctness of the order dated 09.04.2019 passed in R.A.No.157 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai, which was filed against the order dated 21.03.2018 made in O.A.No.500 of 2016 on the file of Debts Recovery Tribunal II, Chennai.

2. Mrs.Rita Chandrasekar, learned counsel appearing for the petitioner Bank submitted that when the petitioner Bank filed an application before the DRT to recover the dues payable by the respondents, the DRT, without there being any justification, has



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reduced the rate of interest to 12% simple interest per annum, from 19.35% per annum with monthly rests, as agreed by the parties. Even the DRAT has reduced the rate of interest from 12% per annum to 11% per annum in the appeal filed by the respondents and therefore, the petitioner Bank has been forced to file this writ petition.

3. According to the petitioner, the impugned order passed by the DRAT and the order passed by the DRT insofar as reducing the rate of interest is arbitrary and also contrary to law. It is more so when the first respondent has approached the petitioner bank for loan facilities for commercial purpose, they are liable to pay the dues with interest on contractual basis as per the documents executed by the respondents. The respondents, having borrowed a huge money from the petitioner Bank for running business and made profit on commercial basis, are liable to pay interest to the petitioner Bank on the borrowed money as per the contractual rate of interest. This vital aspect has been completely ignored and overlooked by the DRT and DRAT and therefore, the impugned order is liable to be set aside.



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4. Firstly, the DRT has passed the order reducing the rate of interest from 19.35% per annum with monthly rests to 12% simple interest per annum on 21.03.2018 in O.A.No.500 of 2016. It is not known as to why the petitioner Bank has not challenged the said order.

5. Secondly, in the impugned order dated 09.04.2019 in R.A.No.157 of 2018, the DRAT has stated that normally, the discretion exercised by the Tribunals is not a special matter of scrutiny, but for want of specific mention of imposition of penal interest, the rate of interest was arrived at 12% per annum by the DRT. It is further stated that the petitioner Bank has agreed for that rate of interest and therefore, did not challenge it in appeal.

6. Admittedly, the petitioner Bank, without challenging the order of the DRT reducing the rate of interest from 19.35% per annum to 12% simple interest per annum, is now challenging the order of the DRAT reducing the rate of interest from 12% per annum to 11% per annum, nearly after three years. The huge and inordinate



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delay in filing this writ petition cannot be condoned. Therefore, the writ petition fails and is accordingly dismissed.

(T.R., ACJ.) (D.K.K., J.)
10.10.2022

Index : Yes/No

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T.RAJA, ACJ,
and
D.KRISHNAKUMAR,J

(kpl)

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