

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.542 of 2019
In
Civil Writ Jurisdiction Case No.19536 of 2011

1. Rajya Sahkari Bhumi Vikas Bank Simit Bihar- Jharkhand presently known as Multi State Cooperative Land Development Bank Limited, Bihar- Jharkhand, Budh Marg, Patna, through its Chairman.
2. The Chairman Rajya Sahkari Bhumi Vikas Bank Simit, (Bihar- Jharkhand), presently known as Multi State Cooperative Land Development Bank Limited, Bihar- Jharkhand, Budh Marg, Patna.
3. The Managing Director Rajya Sahkari Bhumi Vikas Bank Simit, (Bihar- Jharkhand), presently known as Multi State Cooperative Land Development Bank Limited, Bihar-Jharkhand, Budh Marg, Patna.

... .. Appellants

Versus

Pushpa Singh Wife of Ajay Kumar Singh Residence of Mohalla- Prabhunath Nagar, West of Housing Colony, Chapra, Near Hanuman Mandir, P.S.- Mufashil Chapra, District- Chapra.

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Y.V. Giri, Senior Advocate Mr. Rajesh Prasad Choudhary, Adv.
For the Respondent/s	:	Mr. Gautam Kumar Kejriwal, <i>Amicus Curiae</i>

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 20-02-2023

Re. I.A. No. 1 of 2019

This appeal has been entertained by a Co-ordinate Bench for a long time but without condoning the delay in preferring this appeal. We condone such delay



as prayed for in the aforesaid interlocutory application, not only on the grounds ascribed therein but principally for the reason that the principal amount due to the respondent has already been paid.

I.A. No. 1 of 2019 stands allowed accordingly.

L.P.A. No. 542 of 2019

The respondent has not been appearing in this matter for a long time. The *amicus* also was not contacted by the respondent.

The appellant/ Multi State Cooperative Land Development Bank Limited has challenged the order dated 09.10.2014 passed in C.W.J.C. No. 19536 of 2011, directing the appellant/Bank to make available to the respondent all the post retrial dues along with 8% per annum as interest from the date when the amount became due to the respondent till the date of its actual payment. In case of non-compliance of the order, referred to above,



there was a further direction that the respondent would be entitled to an interest @18% per annum on the said amount.

Mr. Y.V. Giri, learned senior Advocate for the appellant/Bank has, in the first instance, submitted that the order dated 09.10.2014, referred to above, is non-est in the eyes of law as no writ could have been issued to a Co-operative Bank, which has no State presence. It has been urged on behalf of the appellant/Bank that there is no instrumentality or agency of the State. The State in no part is a stakeholder of the Cooperative Bank and therefore, such Bank would not fall in the category of 'State' as defined under Article 12 of the Constitution of India.

However, we are constrained to observe that this stand was not taken by the appellant/Bank before the Writ Court where it was argued on its behalf that because of its straightened financial circumstances, payments cannot be made.



This stand of the appellant/Bank was not accepted by the Writ Court and hence a direction was issued for making a payment of all post-retrial dues along with 8% interest within a specified period and if such order was not complied with, payment had to be made on a stepped-up rate of interest.

Mr. Giri, however, argues that a question of law is available to him at any stage and even if such ground was not taken before the Writ Court, the appeal would be maintainable on behalf of the appellant/Bank on this score as well.

This appeal was entertained by a Co-ordinate Bench of this Court, which found that no amount has been paid to the respondent even though the services rendered by the respondent was never disputed.

It appears that in the meanwhile, in the contempt jurisdiction (M.J.C. No. 170 of 2019 arising out of C.W.J.C. No. 19536 of 2011), the principal amount of arrears of salary and other dues amounting to



Rs. 2,87,062/- (Rupees two lakh eighty seven thousand and sixty two) plus Rs. 78,769/- (Rupees seventy eight thousand seven hundred and sixty nine) was paid to the respondent.

The contempt petition against the appellant/Bank was thereafter dropped.

This appeal has become infructuous as the contempt Court did not insist for payment of interest on the principal amount for the reasons stated above viz. no dispute with respect to the respondent having rendered service with the appellant/Bank; principal amount due to the respondent having been paid and the respondent not appearing before this Court in appeal even when an *amicus* was appointed by the Court to assist her. We are of the view that no interference is required to be made with the order passed by the learned single Judge.

However, we make it clear that the issue of maintainability of the writ petition against a Co-operative body remains open for the appellant/Bank for any future



reference.

The appeal stands disposed of.

(Ashutosh Kumar, J)

(Harish Kumar, J)

rohit/rishi

AFR/NAFR	NAFR
CAV DATE	NA
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