October 11, 2023
Sl. No.26
Court No.19
s.biswas

CO 3374 of 2023

M/s. Ranu Enterprise
vs.
ICICI Bank Limited and others

Mr. Debdutta Basu
Ms. Pompa Dey (Dhabal)
... for the petitioner
Mr. Avishek Guha
Ms. Akansha Chopra
... for the opposite party no.1

The revisional application arises out of an order dated April 13, 2023 passed by the learned District Judge, Alipore, South 24 Parganas, in Misc. Appeal No.105 of 2023.

By the order impugned, the learned lower appellate court refused to pass any order of injunction as prayed for by the plaintiff/petitioner. The plaintiff/petitioner filed a suit for declaration and injunction against the ICICI Bank and the Reserve Bank.

The prayers of the plaint are quoted below:

A. For a decree of declaration, declaring that the Loan Account Vide Number (LAN) : LQCAL00038199493, with ICICI Bank, linked through the Current Account NO.003405500278, ICICI Bank, Ballygunge branch of the plaintiff is repaid without dues and closed;
B. For a decree of permanent injunction restraining the defendant no.1 from auto-debiting any further amount specifically a sum of Rs.5,85,229/- on 15.04.2023 and another sum of

> Rs.3,49,124/- on 15.05.2023 from the plaintiff's account via Current Account No.003405500278, ICICI Bank, Ballygunge branch with respect to such loan account or otherwise and also restraining the defendant no.1 from charging 'interest upon interest' with respect to such loan account or otherwise.

An application for injunction was also filed along with the prayer for ad interim injunction. The ad interim prayer was that the defendant/ICICI Bank, should be restrained from auto-debiting any amount towards payment of interest upon interest as disclosed in the chart by the said bank.

The prayer for ad interim injunction was refused by the learned trial judge on the ground that if any auto-debit was made in the meantime by the bank, the same could be refunded to the petitioner. Moreover, the petitioner was required to prove a, prima facie, case in his favour for the reliefs prayed for.

The said order was challenged before the learned lower appellate court. The learned lower appellate court came to the finding that an Amoritization Schedule at the time of sanction of the loan had been provided to the petitioner. A fresh repayment schedule has been provided on April 26, 2021 and instead of payment in 46 equal monthly instalments, payment was directed to be made in 53 equal monthly instalments. Since April 26, 2021, the appellant did not approach the bank with any grievance. Thus, the prayer for injunction could not be granted. It appears to the court that the bank has not yet taken any steps to auto debit the alleged interest on interest on the amount claimed.

The learned trial judge was of the view that without hearing the bank and deciding the, prima facie case, ad interim order of injunction could not be passed. The learned lower appellate court found that the repayment schedule, as given by the bank, was sufficient opportunity to the petitioner.

Under such circumstances, this court does not find any reason to interfere with the order impugned. An ad-interim injunction can be granted if the petitioner proves prima facie case, serious inconvenience, irreparable loss and injury. The learned trial judge came to a finding that the matter had to be decided upon contested hearing.

Thus, the revisional application is disposed of. The Misc. Appeal 105 of 2023 is also disposed of. The learned Civil Judge (Junior Division), 2nd Court at Alipore, is directed to hear out the application for temporary injunction and dispose of the same within a period of three months from the date of reopening of the court after ensuing puja vacation.

This court has not gone into the question of maintainability of the suit or the rights and liabilities of the parties. The parties are at liberty to take all the objections, in accordance with law in the pending suit.

All the parties are directed to act on the basis of the server copy of the order.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)