IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Before:
The Hon'ble The Chief Justice T. S. Sivagnanam
and
The Hon'ble Justice Hiranmay Bhattacharyya

F.M.A. 812 of 2022
With
IA No. CAN 1 of 2022
Punjab National Bank
Versus
West Bengal State Cooperative Bank Limited & Ors.

For the Appellant	: Mr. Jishnu Saha, Sr. Adv. Ms. Aparajita Rao Ms. S. Roy	….advocates
For the Respondent Nos.1 & 2	: Mr. Saktinath Mukherjee, Sr. Adv. Mr. Saptanshu Basu Mr. Sukanta Chakraborty Mr. Anindya Halder	…advocates
For the RBI	: Mr. Arunabha Sarkar	…..advocate
Reserved on	: 22.01.2024	
Judgment on	: 22.03.2024	

Hiranmay Bhattacharyya, J.:-

1. This appeal is at the instance of Punjab National Bank (for short "PNB") and is directed against a judgment and order dated 18.05.2022 passed by a learned Single Judge in WPA 19959 of 2014.

2. By the judgment and order impugned the writ petition stood allowed and the appellant bank was directed to return a sum of Rs. 26,35,18,453,93/- together with interest to the first respondent within the time limit stipulated in the said order.

3. The first and second respondents in this appeal filed a writ petition praying for a direction upon the Branch Manager of PNB to refund and/or return the sum of Rs. 20 crores deposited on 24.01.2023 in the form of fixed deposits for a period of three years with PNB together with interest thereon.

4. The first writ petitioner/ the first respondent herein is a State Co-operative Bank and a Schedule Bank within the meaning of the Reserve Bank of India Act 1934 carrying on, inter alia, banking business. The respondent no. 1 herein at the relevant point of time claims to have negotiated with several bankers to obtain maximum available interest on its deposit. PNB agreed to provide the highest available interest to the respondent no. 1 herein at the relevant point of time. PNB through its Selimpur branch issued a letter dated 17.01.2013 containing a proposal to accept a bulk deposit for a sum of Rs. 10 crore and above for a period of one year with interest @ 9.65% per annum. The first respondent was requested to remit this fund in favour of the appellant bank through electronic mode of transfer at the account mentioned in the said letter. The first respondent remitted and deposited a sum of Rs. 20 crores on 24.01.2013 in favour of PNB through Real Time Gross Settlement (RTGS) process at the designated IFSC code and account number provided by the appellant bank. Upon such deposit being made a unique transaction reference number was generated acknowledging receipt of the said sum of Rs. 20 crores. The Senior Manager of PNB under a forwarding letter dated 04.02.2013 forwarded the fixed deposit certificate with the effective date of 24.01.2013 showing the date of maturity as 24.01.2016 and the maturity value of Rs. 26,35,18,454.93/-. After coming across a newspaper report regarding commission of fraud relating to fixed deposits with UCO Bank, Circus Avenue Branch, Kolkata, the first respondent by its letter dated 20.03.2013 requested the appellant

bank to confirm the balance on account of the fixed deposit for the said sum of Rs. 20 crores. In response to the said letter, the appellant bank vide letter dated 21.03.2013 informed the petitioner that the appellant bank had not opened the fixed deposit account in favour of the first respondent for the said sum of Rs. 20 crores. Immediately, thereafter, the first respondent through its letter dated 21.03.2013 lodged a complaint before Deputy Commissioner of Police, Detective Department, Kolkata alleging fraud and wrongful misappropriation of the said sum of Rs. 20 crores against the appellant bank and its officials. The first respondents alleged that despite demands made by it for return of the fixed deposit amount by the appellant bank, PNB failed and neglected to pay the amount to the first respondent for which this writ petition was filed.

5. The appellant bank contested the writ petition by filing its affidavit-in-opposition. The specific defense of the appellant bank was that one Sanjay Kumar Pandey carried on business under the name and style of one "Laxmi Enterprise". The said Laxmi Enterprise opened a current account with the Selimpur branch of PNB on 22.12.2012 after complying with the necessary formalities in that regard. The appellant bank claims to have been informed by a letter issued by the first respondent that they had made RTGS in favour of the said Laxmi Enterprise. The appellant bank requested the first respondent to inform the bank about the purpose of such credit.

6. The appellant bank states that the first respondent informed the bank by a letter that it had made RTGS for a sum of Rs. 20 crores in favour of the said Laxmi Enterprise against a tender for construction of a hospital. It was further stated in the said affidavit that Laxmi Enterprise withdrew the said sum of Rs. 20 crores in a phased manner and the said account subsequently became inoperative.

7. The first respondent filed an affidavit in reply to the affidavit in opposition of the appellant bank. In the said affidavit it was stated that pursuant to the criminal complaint lodged by the first respondent, some officials including a former employee of the appellant bank were identified by the police

authority. During investigation one Shri Atindra Chandra Saha Sardar was detected to have received monetary consideration for the said fraudulent misappropriation of the fixed deposit and some officials of the appellant bank were also arrested. It was also contended that the letter head of the first respondent which were disclosed and relied upon by the appellant bank in its affidavit-in-opposition were not the letter head of the first respondent. It was also stated that such documents were manufactured, purposive and engineered for the purpose of setting up an alleged defense against the claim of the first respondent.

8. Reserve Bank of India (for short "RBI") filed an affidavit-in-opposition stating that the writ petition is not maintainable against it and its officials as they had not failed to perform any public or statutory duty.

9. By the impugned order, the learned Trial Judge directed the appellant bank to return the said sum of Rs. 26,35,18,458.93/- together with interest at the rate of 5% per annum since 25.01.2016 on the said amount till the date of making such payment. Such payment was directed to be made within the time limit indicated in the said order. Being aggrieved by the said order, PNB has filed this intra court appeal.

10. Mr. Jishnu Saha learned Senior Counsel appearing in support of the appeal contended that in case of transfer of fund through RTGS, the appellant bank had no role to play. The code numbers are inserted by the payee and on receipt of confirmation from the receiving bank the money gets automatically transferred. He further contended that the first respondent made a RTGS in favour of Laxmi Enterprise against a tender for construction of a hospital. He contended that PNB cannot be held liable for the alleged fraudulent acts by its purported employees who, according to Mr. Shah, acted beyond the course of employment. He submitted that the disputes involved in the writ petition required adjudication of disputed questions of fact which are required to be done by trial on evidence. Mr. Shah contended that the learned Trial Judge erred in law by directing

return of the amount together with interest without appreciating that the money claimed in the case in hand is not an admitted claim.

11. Mr. Mukherjee learned Senior Advocate appearing for the first respondent submitted that following the offer of the appellant to provide highest rate of interest, the first respondent accepted such offer and deposited the sum of Rs. 20 crores in the account as per the direction of the appellant bank. He further submitted that the fixed deposit receipt showing the maturity date and the maturity value and the amount deposited as well as the date of making such deposit was made over to the first respondent. He contended that the first respondent had no nexus or connection with Laxmi Enterprise and the documents/ correspondences annexed to the affidavit-in-opposition of the appellant bank before the writ court are manufactured documents only to create a dispute on facts to defeat the claim of the first respondent. He concluded by submitting that the appellant bank failed to perform its statutory obligation by not returning the total fixed deposit proceeds upon its maturity.

12. Heard the learned advocates for the parties and perused the materials on record.

13. Record reveals that the Senior Manager of PNB issued a letter dated 17.01.2013 being annexure P-1 to the writ petition providing the details and the particulars of the account number and the IFSC Code of the particular branch of the PNB at which the writ petitioner/ respondent no. 1 herein was asked to deposit the money for creation of a term deposit/ fixed deposit. It further appears from the said document that PNB promised the rate of interest for one year at 9.65% per annum to be paid to the writ petitioner. It also appears therefrom that the writ petitioner was asked to issue a cheque in favour of Punjab National Bank, Account No. 1770002100040286.

14. The transaction reference document was annexed as annexure P-3 to the writ petition. From the said document it appears that the writ petitioner

made a deposit of Rs. 20 crores on 24.01.2013 in the same account number as provided by the Senior Manager of the PNB in its letter dated 17.01.2013 for creation of a term deposit for 3 years @ 9.65% per annum on quarterly compound basis.

15. It is further evident from the record that the Senior Manager, PNB under a covering letter dated 04.02.2013 which was annexed as annexure P-4 to the writ petition forwarded the original FDR receipts for Rs. 20 crores for 1096 days to the writ petitioner. The account number of the fixed deposit was mentioned as 177000DP00001447 and branch serial no. was also mentioned therein as 177000. The original fixed deposit which was enclosed along with said letter contained the caption “confirmation of deposit”. The name of the branch was mentioned as Selimpur Road, Kolkata. The branch serial number, fixed deposit account number, the amount of the deposit, the period of such deposit, the rate of interest, the maturity date was also mentioned therein. It appears from the said receipt that the date of maturity was mentioned as 24.01.2016; the maturity value was Rs. 26,35,18,453.93/- and the amount invested was Rs. 20 crores. It further appears from the said document that the deposit receipt was signed by two authorised signatories of PNB on 24.01.2013.

16. The learned Single Judge after careful scrutiny of the averments made in the pleadings of the respective parties and the documents annexed thereto recorded as specific finding that the annexures P-1, P-3 and P-4 to the writ petitions were not challenged, questioned, rebutted or controverted by the PNB. In course of hearing of this appeal, the said documents have also not been challenged by the appellants. The authority of the persons issuing the Fixed Deposit Receipt has not been questioned in this appeal. This Court is, therefore, of the considered view that the receipt of a sum of Rs. 20 crores from the writ petitioner has been duly acknowledged by the PNB and the PNB was therefore, the custodian as well as the trustee of the amounts received from the writ petitioner.

17. It is not in dispute that PNB has withheld the maturity value of the said deposit even after the date of maturity. PNB was duty bound to pay the maturity value to the writ petitioners on the date of maturity i.e., on 24.01.2016. This Court is, therefore, of the considered view that PNB had wrongly and illegally withheld maturity proceeds of the term deposit and for which they are liable to pay interest to the writ petitioner. The learned Single Judge rightly directed the appellant bank to pay interest at the rate of 5% per annum since 25.01.2016 on the said maturity value till the date the entire proceeds along with interest is tendered to the writ petitioner. To the mind of this Court, the rate of interest stipulated in the impugned judgment is reasonable.

18. This Court shall now deal with the argument of Mr. Saha that the writ petition involves disputed questions of fact which has to be decided in a property constituted Civil Suit. The respondent no. 1 prayed for direction upon the appellant Bank to refund the sum of Rs. 20 crores invested in Fixed Deposits together with interest in this writ petition. It is evident from the records that pursuant to an offer of interest at a particular rate on bulk deposit, the first respondent deposited the sum of Rs. 20 crores in a particular Account Number as directed by PNB. The Fixed Deposit Receipt issued by authorised officials goes to prove that PNB acknowledged receipt of the said sum of Rs. 20 crores from the first respondent and such amount was invested in a fixed deposit at the rate and for the period mentioned in the said receipt. It is not in dispute that PNB did not pay the maturity proceeds of such receipt on or after the maturity date to the first respondent. In view of such undisputed facts, no further factual adjudication is left for holding that the Bank is liable to refund the maturity proceeds of the Fixed Deposit Receipt together with interest to the first respondent.

19. In so far as the other argument of Mr. Saha that the bank cannot be held liable for the alleged fraudulent act by its purported employees, this Court finds that the learned Single Judge rightly held that the annexures P-1, P-3

and P-4 to the writ petitions were duly issued by the authorised employees of the appellant bank in usual course of business and their employment. The learned Single Judge also noted that the appellant bank never raised any dispute or denied the authority of such authorised imployees. This Court is, therefore, of the considered view that the said documents being annexures P-1, P-3, P-4 are binding upon the appellant bank and they cannot deny their liability in respect thereof.

20. In so far as the submission of Mr. Saha that the writ petitioner had business dealings with M/s. Laxmi Enterprise, this Court finds that the learned Single Judge rightly noted the conduct of the appellant bank who even after the alleged discovery of fraud did not take any steps to resist and dislodge the claim of the writ petitioners by initiating appropriate legal proceeding or otherwise in accordance with law and allowed the said amount to be misappropriated from its custody for a substantial period of time.

21. After going through the documents relied upon by Mr. Saha in course of his argument in support of his contention that the first respondent had business dealings with M/s. Laxmi Enterprise, this Court is inclined to accept the contention of Mr. Mukherjee, learned Senior Advocate that the said story was made only to defeat the claim of the first respondent as this Court has already held that the acceptance of money from the first respondent for investment in Fixed Deposit has been proved on the basis of admitted documents.

22. This Court finds that the learned Single Judge has delivered a detailed judgment dealing with the pleadings of the respective parties, considered the effect of the documents annexed to the pleadings of the parties and answered the points/ issues raised by the learned advocates of the respective parties in course of their argument by assigning cogent reasons in support of the ultimate conclusion.

23. This Court is, therefore, not inclined to interfere with the impugned judgment and order passed by the learned Single Judge in this intra court mandamus appeal.

24. For the reasons as aforesaid the appeal stands dismissed. Accordingly the application stands disposed of.

25. There shall be, however, no order as to costs.

26. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

I agree.

(T.S. Sivagnanam, CJ.) **(Hiranmay Bhattacharyya, J.)**

Later: **Date: 22.03.2024**

After this judgment was delivered, the learned advocate appearing for the appellant, upon instruction prays for four weeks time to enable it to comply with the order.

Such submission is not opposed by Mr. Chakraborty, learned advocate appearing for the respondents/ writ petitioners.

As prayed for the learned advocate for the appellant, four weeks time is granted to the appellant to comply with the order passed by the learned Single Judge.

I agree.

(T.S. Sivagnanam, CJ.) **(Hiranmay Bhattacharyya, J.)**