Court No. 9
(265711)

03.09.2024

(A 24)

(S. Banerjee)

WPA 22263 of 2023

Asish Kumar Malakar
Vs.
Sr. Branch Manager, Punjab National Bank & Anr.

Mr. Sayak Majumder
...for the petitioner
Ms. Parna Roy Choudhury
...for the respondent bank

1. The petitioner urges the Writ Court, to invoke its power under Article 226 of the Constitution of India, and adjudicate the correctness of the statement given by the bank, with regard to the outstanding dues of the petitioner. The contention is that the bank should have considered the representations of the petitioner and accordingly corrected the statement. The petitioner had paid 178 instalments out of 180 instalments. Thus, such a huge amount of Rs.1,90,000/- could not have been left outstanding against the loan account. The calculation sheet, according to the petitioner, was erroneous and should be set aside by this Court on the ground that excess money was being claimed by the bank.

2. The pleadings in paragraph no. 1 of the writ petition states that the writ petition has been directed against inaction on the part of the

respondents to take the balance amount due from the petitioner and close the house building loan amount, being HBL A/c no. 0355300500042. In spite of admitting that the petitioner had paid 178 out of 180 instalments, the matter had been kept pending. Thus, the writ petition does not open with any allegation with regard to the calculation/statement. Paragraph nos. 3 to 5 of the writ petition deal with the quantum of the loan, the amount of EMI, the inability of the petitioner to pay the EMI as per the tenure fixed in the loan agreement and refusal on the part of the bank to return the title deeds. The petitioner then proceeds in paragraph nos. 6 to 8 of the writ petition to narrate the factum of having approached the Ombudsman and against the calculation of the bank. Paragraph nos. 11 to 16 deal with how the bank had refused to close the loan account and issue the No-Dues certificate. Paragraph no. 17 deals with the claim of the bank to close the account upon payment of Rs. 1,95,265/-. In none of the paragraphs, it has been alleged that the bank's calculation was wrong.

3. Bald allegations that the amount was exorbitant, unjustified and contrary to the bank's admission that 178 instalments were paid, cannot be a

ground for recalculation of the bank statement by the Writ Court. A Writ of Certiorari cannot be issued by quashing the statement. Unless the petitioner can show, with specific instances, that the authority had acted arbitrarily and illegally and had unjustly claimed more money from the petitioner, the writ petition cannot be entertained. It is submitted that the bank has already appropriated the dues of Rs. 1,90,000/- from a fixed deposit. Thus, the No-Dues certificate and the title deeds shall be returned. According to the authorities, the No-Dues certificate will be provided and the title deed of the building will be returned, upon payment balance amount, if any. It is made clear that the balance, if any, shall be calculated upto the date of appropriate of the fixed deposit, and not thereafter.

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

(Shampa Sarkar, J.)