

Dinesh Textiles and ors. Vs. Sbbj and ors.

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Court : Rajasthan

Decided On : Nov-19-1998

Reported in : AIR1999Raj162; 1999(2)WLC267

Judge : Mohd. Yamin, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Order 24, Rule 1

Appeal No. : Civil Revn. No. 1067 of 1998

Appellant : Dinesh Textiles and ors.

Respondent : Sbbj and ors.

Advocate for Pet/Ap. : S.L. Jain, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Mohd. Yamin, J.

1. This revision has been directed against the order of learned District Judge, Ganganagar dated 3-11-98.

2. State Bank of Bikaner and Jaipur filed a civil suit against the petitioners for recovery of a sum of Rs. 1,88,900.62. The defendant earlier filed an application on

4-9-98 to deposit amount which was dismissed by the trial Court but in Revision No. 876/98, decided on 17-9-98, it was observed that the petitioner shall have the right to file a fresh application.

3. Learned counsel for the petitioners submitted that he has deposited a sum of Rs. 1,98,416.62 and even then the trial Court has not decided the civil suit in view of 1998 DNJ (Raj) 439, Central Bank of India, Jodhpur v. Aman Travels, Jodhpur and others. He has prayed in this revision petition that the order be quashed and the application of the petitioner be allowed as prayed.

4. I have heard the learned counsel for the petitioners at length.

5. In the application before the Court below the defendant submitted that he had paid a sum of Rs. 1,98,416.62 and the suit be consigned to record. The learned trial Judge found that the plaintiff had not deposited the fee chargeable by the advocate of the plaintiff much so when the suit was fully tried and the suit was fixed for final arguments. He also found that in view of 1994 DNJ (Raj) 152, Jailal v. Punjab National Bank, that it was not possible to reduce the rate of interest as the banks work in public interest. According to the learned trial Judge the bank was entitled to interest for full five years during which the civil suit was pending and the defendant had paid the amount in order to save interest of five years as well as the fee of the advocate and other miscellaneous expenses which the bank had incurred. He, therefore, did not decide the suit and dismissed the application.

6. Learned counsel for the petitioners has submitted that in Central Bank of India v. M/s. Aman Travels, 1998 DNJ (Raj) 439, Hon'ble N.C. Sharma, J. observed that the trial Court can exercise discretion of awarding or not awarding pendente lite and future interest under Section 34 of the CPC and since the entire amount of loan had been repaid to the bank, provisions of Section 34 of CPC were not attracted. It may be stated that the judgment rendered in Central Bank of India v. Aman Travels, (1998 DNJ (Raj) 439) (supra) is not applicable to this case because in the judgment it was not considered that Section 21A of the Banking Regulation Act, 1949 provides that notwithstanding anything contained in the Usurious Loans Act, 1918 (10 of 1918) or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be

reopened by any Court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive. It means that whatever the rate of interest is decided by the Reserve Bank of India, the same has to be charged by the banks and cannot be reopened by the Courts on the ground that it was excessive.

7. Apart from it in *Jailal v. Punjab National Bank*, (1994 DNJ (Raj) 152) (supra) it has been observed that the bank is a public institution and has to run for the benefit of the public at large and if the rate of interest is reduced, it would amount to denial of justice not to the plaintiff but to the public at large.

8. In view of all these provisions of law, I am of a very clear view that the learned trial Judge has not committed any error of jurisdiction in disallowing the application of the petitioner-defendant.

9. Consequently, the revision petition is dismissed at the admission stage. Send a copy of this order to trial Court.

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