
(2010) 09 AP CK 0025

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22752 of 2003

Andhra Bank, Saifabad Branch

APPELLANT

Vs

Valluripalli Nagarjun and Another

RESPONDENT

Date of Decision : 17-09-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 34 Rule 11, 34

Criminal Procedure Code, 1973 (CrPC) — Section 195

Penal Code, 1860 (IPC) — Section 193, 196, 228

Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 19, 19(20), 8

Citation : (2011) 1 ALD 457 : (2011) 2 BC 1

Hon'ble Judges : Noushad Ali, J;Goda Raghuram, J

Bench : Division Bench

Advocate : Alluri Krishnam Raju, for the Appellant; S. Chakrapani, for the Respondent

Final Decision : Allowed

Judgement

Noushad Ali, J.—The Petitioner-Bank filed this writ petition against the order dated 12.09.2003 passed in R.A. No. 36 of 2003 made by the Debt Recovery Appellate Tribunal, (DRAT) Chennai, insofar as the order granting interest pendente lite in lump sum instead of at the rate agreed to by the Respondents.

2. The Respondents herein were sanctioned a term loan of Rs. 600 lakhs, secured by an equitable mortgage by deposit of title deeds of the property consisting of 5th and 6th floors of the premises called "My Home Sarover Plaza" situated at Saifabad, Hyderabad, through the General Power of Attorney (GPA) holder Smt. V. Hemalata (mother of the first Respondent). The Respondents availed the said loan with an undertaking to repay with interest at Prime Lending Rate (PLR) of the Petitioner-Bank + 2%, with quarterly rests in 72 monthly installments commencing from February, 2000. It was also agreed that the rate of interest might be revised by the Bank from time to time as per the directions of the Reserve Bank of India. An agreement dated 28.12.1999 was accordingly

entered into, inter alia, with a stipulation in Clause 5 of the said agreement that the Petitioner-Bank would have a right to recall the entire loan amount outstanding in the account by a written notice, notwithstanding the loan was repayable in monthly installments. The Respondents defaulted on the repayment schedule from June 2000 and also a portion of interest payable for March 2002 and the loan was liable to be recalled as provided in Clause 5 of the agreement. The efforts made by the Petitioner-Bank to impress upon the Respondents to pay the overdue installments and regularize the account in order to avoid classification of the account as a non-performing asset by 30.03.2002, did not yield results. The Respondents were advised through a legal notice dated 23.02.2002, telegram and fax as well, to repay the overdue amount of Rs. 1,08,29,080/- on or before 30.03.2002, duly cautioning that on the failure to regularize, the loan amount would be recalled and proceedings would be initiated for the recovery of the entire outstanding amount. The Respondents received the said notice.

The first Respondent through his GPA made a representation dated 23.03.2002 requesting to divide the loan amount in two equal parts in the names of the Respondents separately. As the Respondents failed to regularize the account, another legal notice dated 29.05.2002 was issued. The second Respondent responded to the said notice and sought time till 15.06.2002. The first Respondent, despite receipt of notice, did not respond. As all the efforts failed, the Petitioner-Bank filed O.A. No. 272 of 2002 before the Debt Recovery Tribunal (DRT), Hyderabad on 20.06.2002 for recovery of Rs. 5,94,47,566.64 ps., together with interest pendente lite and future interest @ 16% p.a. with quarterly rests and for costs.

3. The first Respondent set up a plea before the DRT, Hyderabad that he availed loan for Rs. 3 crores only. He denied that the loan was jointly sanctioned along with the second Respondent and pleaded that his property was given in security only for Rs. 3 crores and therefore his liability would not extend beyond Rs. 3 crores. He further pleaded that he made a proposal for One Time Settlement (OTS). The second Respondent filed separate written statement and put the Petitioner to strict proof of various averments made in the O.A. relating to execution of documents and creation of mortgage.

Pending the O.A., the first Respondent filed I.A. No. 491 of 2002 in I.A. No. 1395 of 2002 before the DRT, Hyderabad, seeking permission to transfer his portion of mortgage property with due disclosure of the Bank's interest in the said property. On the dismissal of the said I.A., he preferred an appeal in M.A. No. 98 of 2003 before the DRAT, Chennai. In the said appeal the first Respondent agreed to deposit the entire amount Rs. 5,94,00,000/- and sought for liberty to keep open the question as to interest pendente lite and post decree interest. The DRAT, Chennai accepted the proposal and directed the first Respondent to deposit the said amount after the DRT, Hyderabad decided the interest within a period of two weeks. The DRAT, Chennai, recorded the undertaking that no

appeal would be preferred on the said claim amount, with due liberty to challenge the rate of interest, if aggrieved.

Thereafter, the DRT, Hyderabad, conducted enquiry by examining the official of the Petitioner-Bank as AW.1 and marked Exs.A.1 to A.25. No evidence was adduced by the Respondents.

In the O.A., the Petitioner-Bank insisted payment of interest as agreed i.e., @ 16% p.a. with quarterly rests from the date of application till the date of realization, but the first Respondent pleaded for waiver of interest in toto. The DRT, Hyderabad, accepted the contention of the first Respondent and accordingly passed the order dated 27.08.2003 declining to grant interest pendente lite but granted post decree interest @ 6% p.a. Aggrieved by the said award, declining interest pendente lite, the Petitioner-Bank preferred an appeal in R.A. No. 36 of 2003 before the DRAT, Chennai. The DRAT, Chennai, allowed the said appeal by order dated 12.09.2003 to a limited extent awarding a lump sum interest of Rs. 10,00,000/-. Aggrieved thereby the Petitioner-Bank has filed this Writ Petition. Heard Sri Alluri Krishnam Raju, learned Counsel for the Petitioner and Sri C. Kodanda Ram, learned Senior Counsel instructed by Sri S. Chakrapani, on behalf of the Respondent No. 1.

The learned Counsel for the Petitioner-Bank would contend that the DRT, Hyderabad and DRAT, Chennai as well were not judicious in their approach to the matter of grant of interest pendente lite. The Respondents availed the loan for commercial purpose and defaulted on the repayment schedule. The Respondents were not responsive despite several appraisals and the Petitioner-Bank was compelled to seek legal remedies. He would contend that neither the total waiver of interest as directed by the DRT, Hyderabad nor the meager interest of Rs. 10,00,000/- as awarded by the DRAT, Chennai, deserve acceptance and the interest as agreed is liable to be awarded.

The learned Senior Counsel Sri Kondanda Ram, in reply, would contend that grant of interest pendente lite is a matter within the discretion of the Tribunal. He would contend that Respondent Nos. 1 and 2 approached the Bank for a loan of Rs. 3 crore, each, through their GPA Smt. V. Hemalatha, but the loan was sanctioned jointly to both the Respondents against the collateral security/equitable mortgage of immovable property of separate and distinct portions consisting of 5th and 6th floors of the schedule property. As the loan was disbursed to the Respondents separately, the Bank should not insist on realization of the entire dues from the first Respondent alone. The first Respondent was ready to settle his portion of loan account with interest and proposed for a One Time Settlement subject to waiving compounding interest, penal interest and liquidity damages within a period of one year. The Petitioner-Bank did not consider the said offer. The first Respondent ultimately undertook to pay the entire loan amount without reference to the second Respondent as he was concerned about his reputation in the market being the Founder, Chairman, President and Chief Executive Officer of Intelligroup. Though the obligation of the

first Respondent is only to the extent of 50% of the dues; and despite being legally protected, the first Respondent chose not to contest the case and accordingly undertook before the DRAT, Chennai, in M.A. No. 98 of 2003 to pay the entire amount without reference to the liability of the second Respondent.

He would contend that despite total waiver of interest by the DRT, Hyderabad, the Respondents accepted the impugned order of the DRAT, Chennai, only to avoid further litigation. Reliance was placed by the learned Counsel on United Bank of India Vs. Rashyan Udyog and others, etc., , Surya Dev Rai Vs. Ram Chander Rai and Others, and Central Bank of India Vs. Ravindra and Others,

Whether the Respondents sought a joint loan or individually to the extent of Rs. 3 crore each, is not relevant to the present dispute in the writ petition. The first Respondent did not contest the said issue, despite the Petitioner-Bank adduced its evidence and instead agreed to discharge the entire liability. It is therefore not open to the first Respondent to canvass here that his liability was limited to 50% of the loan only. In the circumstances, the said plea is misconceived in these proceedings particularly in view of the undertaking given before the DRAT, Chennai, in M.A. No. 98 of 2003, by the first Respondent undertaking to discharge the loan himself which he had in fact discharged. The undisputed facts that emerge are that, a term loan of Rs. 600 lakhs was sanctioned, secured in the equitable mortgage of the immovable property of the Respondents. The Respondents availed the said loan jointly and agreed to repay with interest at PLR of the Bank + 2% with quarterly rests in 72 monthly installments commencing from February, 2000. The Respondents, however, defaulted on monthly schedule within a short period from June 2000 itself. The Bank was constrained to seek its legal remedy by approaching the DRT, Hyderabad, and later the DRAT, Chennai, for recovery. The first Respondent repaid the amount after the final order was passed by the DRT, Hyderabad, on 27.08.2003. The O.A. was filed on 20.06.2002 and disposed of on 27.08.2003. Therefore, the disputed period during which the interest was sought is from 20.06.2002 to 27.08.2003. In the circumstances, the only point that arises for consideration is - whether the Petitioner-Bank is entitled for interest pendente lite as per the agreement @ PLR + 2% with quarterly rests or whether the lump sum interest granted by the DRAT, Chennai, is just and proper?

Section 19 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993, (the Act) provides that where a Bank or Financial Institution has to recover any debt from any person, it may make an application to the Debts Recovery Tribunal, which is vested with the powers enumerated in the said provision.

Sub-section (20) of Section 19 of the Act provides that the Tribunal may, after giving the applicant and Defendant an opportunity of being heard, pass such interim or final order, including the order for payment of interest from the date on or before on which payment of the amount is found due, up to the date of realization or actual payment, on the application as it thinks fit, to meet the ends of justice.

By virtue of the said provision, the Tribunal is vested with the power to order payment of interest not only for the pre-decree and post-decree periods but also for the period of the pendency of the application. The power so exercisable is indisputably discretionary. However, such power is exercisable in an appropriate manner to meet the ends of justice depending on the facts and circumstances of each case.

Sri C. Kodanda Ram, the learned Senior Counsel laid stress on the language in Sub-section (20) of Section 19 of the Act and would contend that it is perfectly within the jurisdiction of the Tribunal to order payment of interest or at certain rate of interest or totally deny the grant of interest. Reliance has been placed on the judgment of the Apex Court in *Central Bank of India v. Ravindra and Ors.* (supra) and in *United Bank of India v. Rashyan Udyog and Ors.* (supra),

In *Central Bank of India* case, (supra) the Apex Court while considering the provisions of Section 34 CPC on the interpretation and the meaning to be assigned to the phrases "Principal sum adjudged" and "such principal sum" occurring in the said Section, held in paragraph No. 41 as under:

41. A few points are clear from a bare reading of the provision. While decreeing a suit if the decree be for payment of money, the Court would adjudge the principal sum on the date of the suit. The Court may also be called upon to adjudge interest due and payable by the Defendant to the Plaintiff for the pre-suit period which interest would, on the findings arrived at and noted by us hereinabove, obviously be other than such interest as has already stood capitalised and having shed its character as interest, has acquired the colour of the principal and having stood amalgamated in the principal sum would be adjudged so. The principal sum adjudged would be the sum actually loaned plus the amount of interest on periodical rests which according to the contract between the parties or the established banking practice has stood capitalised. Interest pendente lite and future interest (i.e. interest post-decree not exceeding 6 per cent per annum) shall be awarded on such principal sum i.e. the principal sum adjudged on the date of the suit. It is well settled that the use of the word "may" in Section 34 confers a discretion on the Court to award or not to award interest or to award interest at such rate as it deems fit. Such interest, so far as future interest is concerned may commence from the date of the decree and may be made to stop running either with payment or with.

There cannot be any controversy on the said principle laid down by the Apex Court in the aforesaid judgment as regards the discretionary power of the Court to grant interest pendente lite. The Apex Court also observed in paragraph Nos. 37 and 38 as under:

37. Black's Law Dictionary (7th Edition) defines "interest" inter alia as the compensation fixed by agreement or allowed by law for the use or detention of money, or for the loss of money by one who is entitled to its use; especially, the amount owned to a lender in return for the use of the borrowed money.

According to Stroud's Judicial Dictionary of Words and Phrases (5th edition) interest means, inter alia, compensation paid by the borrower to the lender for deprivation of the use of his money. In Secretary, Irrigation Department, Government of Orissa and others Vs. G.C. Roy, the Constitution Bench opined that a person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages...this is the principles of Section 34, Code of Civil Procedure. In Dr. Shamlal Narula Vs. Commissioner of Income Tax, Punjab, this Court held that interest is paid for the deprivation of the use of the money. The essence of interest in the opinion of Lord Wright, in Riches v. Westminster Bank Ltd. (1947) 1 All ER 469 , is that it is a payment which becomes due because the creditor has not had his money at the due date. It may be regarded either as representing the profit he might have made if he had the use of the money, or, conversely, the loss he suffered because he had not that use. The general idea is that he is entitled to compensation for the deprivation; the money due to creditor was not paid, or, in other words, was withheld from him by the debtor after the time when payment should have been made, in breach of his legal rights, and interest was a compensation whether the compensation was liquidated under an agreement or statute. A Division Bench of the High Court of Punjab speaking through Tek Chand, J. in Commissioner of Income Tax, Punjab, Jammu and Kashmir and Himachal Pradesh, Patiala Vs. Dr. Sham Lal Narula, Patiala, thus articulated the concept of interest (AIR p.44, para 8)

the words "interest" and "compensation" are sometimes used interchangeably and on other occasions they have distinct connotation. "Interest" in general terms is the return or compensation for the use or retention by one person of a sum of money belonging to or owed to another. In its narrow sense, "interest" is understood to mean the amount which one has contracted to pay for use of borrowed money.... In whatever category "interest" in a particular case may be put, it is a consideration paid either for the use of money or for forbearance in demanding it, after it has fallen due, and thus, it is a charge for the use or forbearance of money. In this sense, it is a compensation allowed by law or fixed by parties, or permitted by custom or usage, for use of money, belonging to another, or for the delay in paying money after it has become payable.

It is the appeal against this decision of Punjab High Court which was dismissed by Supreme Court in D. Shamlal Narula's case.

38. However "penal interest" has to be distinguished from "interest". Penal interest is an extraordinary liability incurred by a debtor on account of his being a wrong-doer by having committed the wrong of not making the payment when it should have been made, in favour of the person wronged and it is neither related with nor limited to the damages suffered. Thus, while liability to pay interest is founded on the doctrine of compensation, penal interest is a penalty founded on the doctrine of penal action. Penal interest can be charged only once

for one period of default and therefore cannot be permitted to be capitalised.

After referring to Mulla on the CPC (1995 Edition) and also the judgment in Secretary, Irrigation Department, Government of Orissa and others Vs. G.C. Roy, wherein it was held that the interest pendente lite is not a matter of substantive law, the Court observed that "interest from the date of suit to the date of decree is in the discretion of the Court. Interest from the date of the decree to the date of payment or any other earlier date appointed by the Court is again in the discretion of the Court - to award or not to award as also the rate at which to award. In the ultimate analysis, the Apex Court in paragraph No. 55, Clause-8 observed as under:

Award of interest pendente lite and post-decree is discretionary with the Court as it is essentially governed by Section 34 of the CPC dehors the contract between the parties. In a given case if the Court finds that in the principal sum adjudged on the date of the suit the component of interest is disproportionate with the component of the principal sum actually advanced the Court may exercise its discretion in awarding interest pendente lite and post-decree interest at a lower rate or may even decline awarding such interest. The discretion shall be exercised fairly, judiciously and for reasons and not in an arbitrary or fanciful manner.

In United Bank of India case a learned Judge of the Calcutta High Court observed in paragraph No. 5 as under:

Pendent lite as well as post-decree interests are in the nature of compensation or damages which the Court may award to the Plaintiff for being kept out of the money due to him. Whether one looks to the general provisions of Section 34 of the Code of Civil Procedure, or to those of Rule 11 of Order 34 specially applicable to mortgage-suits, the relevant provisions are patently governed and controlled by the expression "may" and therefore it can be concluded from these provisions that award of such interest is not obligatory, but only discretionary and the Court may or may not award such interest.

From a conjoint reading of the observations as noted above, and the provisions of Section 19(20) of the Act, it is manifest that the Tribunal is vested with the power to grant interest pendente lite, but such power should be exercised fairly, judiciously and for reasons and not in any arbitrary or fanciful manner. In the instant case, the DRT, Hyderabad, declined to grant interest on the assumption that the Petitioner-Bank would be making a profit of Rs. 2,13,88,360/- within a span of 34 months, working out to a return of compounding interest @ 10.56% p.a., on the premise that the principal amount and interest payable by the Respondents would be Rs. 8,12,31,489.60 ps., of which Rs. 2,22,19,458/- had already been paid at various points of time before filing of O.A. and that the first Respondent was willing to pay Rs. 5,94,47,566.64 ps., and on the further premise that the first Respondent was always willing to pay his dues even before filing of the O.A and also before the Tribunal.

The said reasons assigned by the Tribunal for waiving the interest are misplaced. As noted above, the first Respondent refused to acknowledge his liability as joint along with Respondent No. 2 but kept pleading that he was liable only to half of the loan amount. Banks being financial institutions thrive on regular monetary transactions. It hardly needs any emphasis that the financial institutions would generally programme their business on the basis of the advances and receipts from the borrowers. They can ill-afford to face financial crunch for any given period. The defaulter is always under an obligation to discharge his liability either voluntarily or through process of law and such discharge of liability is hardly a solace or gratis to the financial institutions. The reason assigned by the DRT, Hyderabad in waiving the interest pendente lite does not, therefore, commend acceptance by this Court. The appellate tribunal also appears not to have been satisfied with the reasons assigned and passed the order in the following terms.

In view of the peculiar circumstances of the case, that the 1st Respondent has paid the entire O.A. claim amount in one lump sum immediately after the order was passed by the PO, by following the principles laid down in the recent decisions of the Apex Court by exercising discretionary power, I hereby direct the 1st Respondent to pay a sum of Rs. 10,00,000/- (Rupees ten lakhs only) for the interest pendente lite and on payment of this pendente lite interest amount of Rs. 10 lakhs the PO, DRT, Hyderabad is directed to release all the title deeds immediately, to the 1st Respondent. The bank is directed to record full satisfaction in the O.A.

Apparently, the DRAT, Chennai, did not agree with the reasons assigned by the DRT, Hyderabad in waiving the interest. While so holding, the Appellate Tribunal, Chennai, too failed to assign any reasons for granting the said lump sum interest only nor it assigned any reasons for rejecting the claim of the Bank to pay the interest at the agreed rate. In Central Bank of India's case (supra) the Apex Court has specifically observed that the discretion should be exercised fairly, judiciously and for reasons and not in an arbitrary or fanciful manner. The Appellate Tribunal is a quasi judicial authority established u/s 8 of the Act for the purposes of discharging its functions under the Act. The Appellate Tribunal has the same powers as are vested in a civil Court under the Code of the Civil Procedure in respect of the matters relating to the summoning and enforcing the attendance of any person and examining him on oath, requiring the discovery or production of documents, receiving evidence on affidavits, issuing commissions for the examination of witnesses or documents, reviewing its decisions, dismissing an application for default or deciding it ex parte and setting aside any order for dismissal of any application for default or any order passed by it ex parte or to deal with any other matter prescribed. Proceedings before the Appellate Tribunal are deemed to be the judicial proceedings within the meaning of Sections 193 and 228 and for the purpose of Section 196 of the Indian Penal Code and a Civil Court for all the purposes of Section 195 and Chapter 26 of the Code of Criminal Procedure, 1973. By virtue of such powers on the Appellate Tribunal, which are judicial in nature, reasons for its decisions are sine qua non

to the discharge of its functions as an Appellate Authority. In the instant case the payment of entire O.A. amount in lump sum after the order was passed by the DRT, Hyderabad is hardly a reason and the reasons are lacking as to why the interest is limited to Rs. 10,00,000/- only and why the plea of the Petitioner for agreed rate of interest was rejected. We are therefore constrained to hold that the impugned order of the DRAT, Chennai, is unsustainable.

On so holding, in the ordinary course, we would have remanded the matter for reconsideration to the DRAT, Chennai, but having regard to the fact that there are no disputed questions of fact which might be required to be reconsidered and having regard to the limited dispute and having heard both the counsel on the issue on merits, we are inclined to consider the matter on merits in this writ petition to avoid further litigation.

Loan was sanctioned vide letter dated 28.12.1999, which the Respondents availed with an undertaking to repay with interest at PLR of the Petitioner-Bank + 2% with quarterly rests repayable in 72 monthly installments commencing from February, 2000. Within a short period the Respondents defaulted from June, 2000. The efforts made by the Petitioner-Bank to secure the co-operation and regularization of the account and avoid classification of the amount as non-performing asset and the caution that the entire loan amount would be recalled and proceedings be initiated for recovery did not yield any result. The Petitioner-Bank was constrained to approach the Debt Recovery Tribunal to recover the loan amount. Even at that stage the Respondents were not ready to discharge the entire liability, instead the first Respondent pleaded liability only to the extent of 50% of the loan and not to the entirety. He specifically pleaded that it was not legally permissible for the Petitioner-Bank to recover anything beyond the principal sum of Rs. 3 crores with interest from him and he was willing to repay the loan to the extent of the said amount only. He disowned the joint liability on the pretext that the second Respondent herein with an intention to cause loss and prejudice to him did not take any interest in repayment of his individual loan of Rs. 3 crores. This defence was set up notwithstanding the sanction of the joint loan with liability of both the Respondents as joint borrowers. A conditional offer was made by the Respondent No. 1 that he would repay the portion of dues of Respondent No. 2 subject to the Bank putting the second Respondent's portion of property to sale and recovering the amounts towards the satisfaction of the dues and in case of any shortfall he would make good the balance. He sought to justify his plea alleging that against the request for separate loans, the Bank Manager obtained signatures of the Power of Attorney (mother of the first Respondent) on the blank papers on the basis of which the joint loan was granted without his knowledge. He expressed his willingness to settle the loan of Rs. 3 crores only, provided the bank acknowledged the fact that the loan was obtained individually by him and Respondent No. 2 to the extent of Rs. 3 crores liability each. He asserted that the Petitioner-Bank wrongly claimed the entire amount jointly and severally from both the Respondents. The first Respondent adopted the said defence in his written statement, which was verified on

29.03.2003 and filed before the DRT, Hyderabad, on 06.05.2003.

The second Respondent herein in his written statement strangely pleaded that no power was granted in favour of Smt. Hemalatha to create a charge over the schedule property and the original Power of Attorney granted in her favour was cancelled subsequently. He denied his liability. This written statement was verified on 22.07.2003 and filed on 31.07.2003. Strangely the DRT, Hyderabad observed in its order dated 27.08.2003 that the first Respondent was always willing to pay his dues even before filing of the O.A. and thereafter. The said observation is clearly contrary to the stand taken by the first Respondent, who expressed his willingness only to the extent of 50%, while disowning the liability in respect of the balance. It also ignored the fact that the trial in the O.A. was also commenced and the Petitioner-Bank adduced its evidence from 31.07.2003, latest on 12.08.2003. It is only after such evidence was adduced, the first Respondent admitted liability before the DRAT, Chennai, in M.A. No. 98 of 2003 on which the orders were passed on 13.08.2003. The DRT, Hyderabad passed final orders thereupon on 27.08.2003 pursuant to which the O.A. amount was paid. The facts that emerge from the aforesaid events are that the default was made with effect from June, 2000 and payment was made only after 27.08.2003. The first Respondent having set up a plea of his limited liability by suggesting that the Petitioner-Bank manipulated the loan as joint, which he failed to establish, lacks bona fides deserving waiver of interest. The fact remains that the first Respondent retained the amount till the decree was passed by orders dated 27.08.2003 and deprived the Petitioner-Bank of using the amount for further advances.

Admittedly, the loan was for commercial purpose, therefore the said loan cannot be treated on par with an agricultural loan. By retention of the commercial loan during the pendency of the O.A., it is logical to infer that the first Respondent would have earned income from out of the amount retained. Interest being compensatory as observed in the judgments referred supra, the Petitioner- Bank cannot be denied the interest pendente lite.

In the circumstances, we are of the opinion that the Petitioner-Bank is entitled for reasonable interest pendente lite. While the counsel for the Petitioner-Bank would insist for the agreed rate of interest @ 16% with quarterly rests, the counsel for the first Respondent would insist for confirming the lump sum interest granted by the appellate Tribunal. In our analysis as above, we are of the opinion that the Petitioner-Bank is not entitled for the agreed rate of interest as claimed and at the same time, the first Respondent is neither entitled for total waiver of interest nor the DRAT, Chennai, is justified in granting limited interest in lump sum. Having regard to the only extenuating fact that the first Respondent repaid the O.A. amount in pursuance of the undertaking given by him in M.A. No. 98 of 2003, dated 13.08.2003 before the DRAT, Chennai, at least after disposal of the O.A. by orders dated 27.08.2003, we are unable to accept the contention of the learned Counsel for the Petitioner-Bank to order payment of

interest at the agreed rate i.e., 16% with quarterly rests. In the totality of the circumstances, to meet the ends of justice we deem it fair and equitable to direct payment of simple interest at PLR of the Bank without quarterly rests, which is said to be as follows (during the relevant period from 19.06.2002 (date of filing of O.A) to 27.08.2003 (date of order in O.A.):

Period PLR

1. 01.05.2002 to 10.11.2002 11.75% p.a. 2. 11.11.2002 to 01.06.2003 11.50% p.a. 3. 02.06.2003 to 14.10.2003 11.25% p.a.

4. In the circumstances, while quashing the order dated 12.09.2003 in R.A. No. 36 of 2003 of the Debt Recovery Appellate Tribunal, Chennai, to the extent impugned we hold that the Respondents shall be jointly and severally liable to pay the interest at the rates as above.

5. The Writ Petition is allowed to the extent indicated above. There shall be no order as to costs.