
(2011) 07 DEL CK 0134

In the Delhi High Court

Case No : Regular First Appeal No. 138 of 2002

Bank of Maharashtra

APPELLANT

Vs

Strip India and Others

RESPONDENT

Date of Decision : 25-07-2011

Acts Referred:

Interest Act, 1978 — Section 3(1), 4(1)

Citation : (2011) 07 DEL CK 0134

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : None, for the Respondent

Judgement

Valmiki J Mehta, J.—This case is on the Regular Board in this Court since 3.7.2011. Today it is 3.25 p.m. No. one appears for the Appellant. I have therefore perused the record and am proceeding to dispose of the appeal.

2. Challenge by means of this appeal is to the impugned judgment dated 12.11.2001 which dismissed the suit of the Appellant bank for recovery of interest on amounts which were illegally advanced by its Branch Manager to the Defendants No. 1 to 3/Respondents No. 1 to 3. The impugned judgment disallows the claim for interest on the ground that there is No. agreement to pay interest.

3. In my opinion, the impugned judgment deserves to be set aside inasmuch as once a person takes credit facilities from bank, surely it is for commercial purpose and therefore it can be said that there is a usage to pay interest with respect to amounts which are borrowed. Section 4(1) of the Interest Act, 1978 permits the court to allow interest wherever there is a usage which is applicable. If there was any doubt with regard to payment of interest, then, the same is removed from the fact that demand notice dated 24.9.1994 was served to make payment of the dues. This payment notice has been exhibited as Ex.PW3/5 and PW3/6 & 7 (colly). The Appellant bank is therefore also entitled to interest by

virtue of Section 3(1)(b) of the Interest Act, 1978.

4. Accordingly, suit of the Appellant/Plaintiff/bank for recovery of Rs. 2,20,899/- is decreed along with the pendente lite and future interest of 9% per annum till realization.

5. Parties are left to bear their cost. Decree sheet be prepared. Trial court records be sent back.