**(2008) 03 JH CK 0104**

**In the Jharkhand High Court**

Laxmi Paper Products APPELLANT

Vs

Bihar State Financial Corporation and Others RESPONDENT

**Date of Decision :** 04-03-2008

**Acts Referred:**

**Citation :** (2008) 3 JCR 191

**Hon'ble Judges :** Narendra Nath Tiwari, J

**Bench :** Single Bench

**Final Decision :** Dismissed

# Judgement

N.N. Tiwari, J.

I.A. No. 739/2008

1. In this interlocutory application the petitioner has prayed for a direction on the respondents to release the original the deeds/documents mortgaged with the respondents as the security of the loan amount which has been refunded and deposited by the petitioner. The respondents-Corporation on full satisfaction, have also issued the Dues Clearance Certificate and certified that the petitioner has already paid the entire settlement amount.

2. It has been stated that the petitioner had earlier challenged the authenticity of the respondents'' order dated 21.6.2007 and during the pendency of the writ petition, the petitioner deposited the amount of Rs. 2,05,939.00 in favour of the respondents-Corporation towards one time settlement of its loan account under ''Plan-A'' of the B.S.F.C.O.T.S. Scheme, 2006. Nothing is now due against the petitioner. However, the original mortgaged deeds and other documents have not been returned to the petitioner on the ground of pendency of the writ petition.

3. Learned counsel for the respondents admitted that the petitioner has already paid the outstanding dues and there is no difficulty in returning the title deeds and documents. Learned counsel assured that the documents shall be returned to the petitioner within a period of three weeks from today.

4. In view of the fair submission and assurance made by learned Counsel for the respondents, this interlocutory application is disposed of. The respondents, as assured, shall return the petitioner''s original title deeds and other documents within a period of three weeks from today.

W.P. (C) No. 6352 of 2002

5. In this writ petition the petitioner has prayed for quashing the order dated 30.10.2002 contained in Annexure-6 whereby it has been communicated that the applicable rate of interest in the case of petitioner is 18% with 2% penal interest and also for a direction to liquidate the dues of a sum of Rs. 6,35,626.39 and to calculate the dues at the appropriate rate of interest which was applicable in the case of the petitioner in terms of the agreement.

6. It has been stated that an agreement was entered into between the petitioner and the Corporation on 2.2.1991. By the office order dated 10.1.1992, the respondents took decision to enhance the rate of interest to 18%. The petitioner was given loan @ 14.5% which was sanctioned as far back as on 1.2.1991 and an agreement to that effect was executed on 4.5.1991 i.e. before the date of the decision of enhancing the rate of interest on 10.1.1992. According to the petitioner, the said order dated 10.1.1992 is not applicable so far as the case of the petitioner is concerned and the petitioner cannot be made liable for payment of the enhanced rate of interest as per the impugned decision dated 10.1.1992.

7. Mr. M.S. Mittal, learned Counsel appearing on behalf of the respondents, submitted that since after the filing of the writ petition there has been subsequent development in the events, the outstanding loan amount of the petitioner had gone up to Rs. 12,86,461/-. The petitioner had been allowed to avail one time settlement of its loan account under ''Plan-A'' of the B.S.F.C. O.T.S. Scheme, 2006 dated 1.12.2006 taking into consideration the order passed by this Court during the pendency of the writ petition. In order to allow the petitioner to avail the said scheme, the respondents have already remitted the entire interest amount which was to the tune of more than 9 lacs. While executing and signing the documents under, the said plan, the petitioner had also admitted the principal dues. He had given an undertaking that he would not dispute the amount any further. The petitioner is bound by the said undertaking. He is estopped from challenging the principal amount or other dues amount after having accepted the dues and taken the benefit of remission of about Rs. 9 lacs out of more than Rs. 12 lacs of the loan amount. This writ petition has, thus, becomes infructuous in view of the said declaration and acceptance of loan amount and remission of the entire interest amount by the respondents.

8. Mr. Ajit Kumar, learned Counsel appearing on behalf of the petitioner, on the other hand, submitted that though the respondents have remitted the amount of interest to the tune of about Rs. 9 lacs, yet since the remaining principal amount included the enhanced rate of interest, the said outstanding principal amount is to be revised in accordance with the terms of the agreement by deducting the

 

amount of the enhanced rate of interest which is not payable by the petitioner. The cause of the petitioner, thus, still survives for consideration and decision of this Court.

9. I have heard learned Counsel for the parties and considered the facts and materials appearing on record. Learned counsel for the petitioner admitted that during the pendency of the writ petition the petitioner has availed one time settlement of its loan amount under ''Plan-A'' of the B.S.F.C.O.T.S. Scheme, 2006. He has also admitted that about Rs. 9 lacs has been remitted out of the amount of Rs. 12,86,000/-. The petitioner had executed and signed an agreement to that effect with the clause that he will not further dispute the principal amount. In view of the said undertaking, the petitioner is estopped from challenging the correctness of the principal amount after having accepted the same and on that basis, availed the advantages of one time settlement under ''Plan-A of the B.S.F.C.O.T.S. Scheme, 2006. I, therefore, find substance in the submissions made by learned Counsel for the respondents. The petitioner once having accepted the correctness of the principal amount, now cannot challenge the same.

10. In view of the above, this writ petition is dismissed.

 