(2015) 02 DEL CK 0362

In the Delhi High Court

Case No : Writ Petition (C) No. 7022/2014

Paramjeet Singh Khurana APPELLANT

Vs

Punjab and Sind Bank RESPONDENT

Date of Decision : 23-02-2015

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2015) 02 DEL CK 0362

Hon'ble Judges : Valmiki J. Mehta, J.

Bench : Single Bench

Advocate : G.S. Chaturvedi, for the Appellant; Rajinder Wali, Advocates for the Respondent

Final Decision : Allowed

Judgement

Valmiki J. Mehta, J.—There are heights of dishonesty with certain litigants such as the petitioner resort to, and which besides causing gross wastage of judicial time also causes unnecessary expenditure to a respondent and which in this case is Punjab and Sind Bank. This I am saying so in view of the present facts of the case which are detailed below for dismissing this writ petition.

2. The petitioner by this writ petition filed under Article 226 of the Constitution of India seeks the relief of direction against the respondent/Bank to quash the order dated 20.4.2012 by which the amounts due to the petitioner towards terminal dues were adjusted towards various amounts due from the petitioner towards various loans repayable to the respondent/Bank. This letter dated 20.4.2012 reads as under:-

"PUNJAB and SIND BANK 2400 HARDAYAL SINGH KAROL BAGH, NEW DELHI 20.04.2012 MR.PARAMJIT SINGH KHURANA K-330, SWAMI DAYANAD COLONY SARAI ROHILLA NEW DELHI 110007

Dear Sir

Reg:

Your Terminal Dues (PF 04180)

We have received amount of Rs.1175114.00 (Eleven Lacs Seventy Five Thousand One Hundred Fourteen Only) vide IBR no.390967 dated 10.04.2014 through our higher office vide their letter dated 10.04.2012. As per their instructions we have appropriated the same on as per following detail.

Term Loan (NSC Loan) 47972 Rs.7961 (Seven Thousand One Hundred Sixty One Only)

CA OD (Staff) 28037 Rs.331024.15 (Three Lacs Thirty One Thousand Twenty Four and Paisa 15 only)

Term Loan 30180 Rs.836128.85 (Rupees Eight Lacs thirty Six Thousand One Hundred Twenty Eight Lacs and paisa 85 only)

You are further advised to adjust the remaining in the accounts of Late S.Santokh Singh and Late Smt. Pritam Kaur at the earliest along with up to date interest, as on date amount outstanding in the accounts are as under:-

Term Loan account no. 30180 Rs.25,68,684.14

Interest Charged upto 31.03.2012 (of late S.Santokh Singh)

Term Loan account no.30132 outstanding in ledger + interest is Rs.188112786/- as on 28.02.2012 (Late Smt. Pritam Kaur)

Yours faithfully Sd/- Dy. General Manager"

3. The respondent/Bank has filed a counter-affidavit and in which it is stated in paras 6 and 7 that three amounts under three separate accounts are due from the petitioner, and of which is the one term loan account in which a sum of Rs.8,36,128.85 was due on account of a loan taken by the mother of the petitioner, and after the death of the mother, the petitioner signed the loan documentation taking over the loan in his name. The relevant aspects with respect to the dues against the petitioner which stood partly adjusted by the respondent/Bank are mentioned in paras 6 to 9 of the counter-affidavit, and which read as under:-

"6. That on superannuation of the petitioner, his terminal dues amounting to Rs.11,75,114/- were transferred from HO(PF) Department to the Branch Office Karol Bagh. The break-up of the terminal dues is as under:

7. That the above terminal dues have been appropriated by the respondent Bank under intimation to the petitioner vide communication dated 20.04.2012. The amounts have been adjusted as under:

8. That the petitioner has also stood as a guarantor in term loan account in the name of late S.Santok Singh bearing A/c No. 30180, wherein the amount

outstanding with interest charged as on 31.03.2012 is Rs.25,68,684.15p. The Term Loan account bearing No. 30132 in the name of Late Smt. Pritam Kaur bears and outstanding debit balance of Rs.18,81,12,786/- as on 28.02.2012.

9. That since the petitioner assumed his liability in the above noted loan account of late Smt. Pritam Kaur, as the principal borrower upon her death and his liability has also been joint and several with the principal borrower as guarantor in the other loan account, therefore, the respondent Bank has appropriated and partly adjusted the loan accounts in the manner as set out hereinabove, under intimation to the petitioner"

4. It is therefore clear that the respondent/Bank has partly adjusted the amounts which were due to the petitioner against the claim of the loan accounts of the respondent/Bank against the petitioner, and total of which is not satisfied, and therefore the respondent/Bank may have to possibly file recovery proceedings. Therefore, under no circumstances it can be held that actions of the respondent/Bank are illegal and unjustified in adjusting the terminal dues of the petitioner against dues payable by the petitioner to the respondent/Bank towards various loan amounts.

5. Learned counsel for the petitioner states that the petitioner does not dispute the amount due in the Term Loan (NSC) account in which Rs.7,961/- is payable and the CAOD (Staff) account in which Rs.3,31,024.15 is payable, and the petitioner only disputes the term loan account in which a sum of Rs.8,36,128.85/- is said to be due to the respondent/Bank. However, arguments of the petitioner are totally without any merit because the respondent/Bank has taken a stand in the counter- affidavit of dues payable by the petitioner and has substantiated the same by filing loan documentation signed by the petitioner. In the rejoinder- affidavit, the petitioner does not dispute having signed the loan documents, and the petitioner only claims that the documents were signed blank, however, these types of defences have never been accepted by courts inasmuch as to permit such types of defences would be to allow dishonesty in contumaciously refusing to pay the dues and allowing of a fraud to be perpetrated on the creditor and who is the employer of the petitioner.

6. Learned counsel for the petitioner has placed reliance upon the judgment of the Supreme Court in the case of Gorakhpur University and Others Vs. Dr. Shitla Prasad Nagendra and Others, to argue that the respondent/Bank could not have adjusted its claims from the terminal dues of the petitioner, however, I do not find that the said judgment lays down any ratio that in no circumstances and in no facts an employer cannot ever adjust its dues against the terminal dues of an employee, and in the case of Gorakhpur University (supra) where a person was entitled to stay in the official accommodation, it was held that where the issue is of determination of penal rent which is a disputed question of fact, then in such a case penal rent which is not determined cannot be recovered from the terminal dues of an employee. The judgment in the case of Gorakhpur University (supra) therefore does not apply in the present case.

7. Counsel for the petitioner also placed reliance upon the judgment of the Supreme Court in the case of D.D. Tewari Vs. Uttar Haryana Bijli Vitran Nigam Ltd., , however, I fail to understand how this judgment will apply because this judgment deals with the aspect that once there is a delayed payment of pensionary benefits, the employee will be entitled to the interest on the amount which is due and payable.

8. It is high-time that to certain sections of litigants a strong message be sent that the courts of law are not meant to be approached for the purpose of filing frivolous litigations in order to avoid payment of dues of the employee towards the employer. It is very surprising that the petitioner on the one hand claims that he is entitled to the amounts from the respondent/Bank, yet on the other hand the petitioner defiantly refuses to pay the loan amounts which are due and payable to the respondent/Bank.

9. The petition is therefore dismissed with costs of Rs.20,000/-, and which costs can be recovered by the respondent/Bank from the petitioner in accordance with the law.

