(2014) 11 DEL CK 0130

In the Delhi High Court

Case No : CM(M) 1051/2014

Punjab National Bank APPELLANT

Vs

Gian Prakash RESPONDENT

Date of Decision : 26-11-2014

Acts Referred:

Citation : (2014) 11 DEL CK 0130

Hon'ble Judges : Valmiki J. Mehta, J

Bench : Single Bench

Advocate : Sanjeev Narula and Ajay Kalra, Advocate for the Appellant; Dheeraj Bhardwaj, Advocate and Party-in-Person, Advocate for the Respondent

Judgement

Valmiki J Mehta, J.

Caveat No. 1050/2014

Since appearance has been put in on behalf of the respondents/caveators, caveat stands discharged.

CM(M) 1051/2014 & C.M.Nos.19494/2014 (Stay) ,19495/2014 (Exemption)

1. Some officers of public sector banks in this country such as of the petitioner/ Punjab National Bank (in short ''the Bank'') in this case, it is seen that they can go to any extent in causing a perverse reading of the applicable circulars and guidelines issued by the Bank itself. Why this is done is not understood by this Court, but, the same surely besides causing a grave harassment to the customers of the bank, in fact in the facts of this case reflects an endeavour to over-reach the court''s process. Possibly, even contempt action can and should be initiated by either the concerned court below or by the beneficiary of the Fixed Deposit (FD) in this case on account of the actions of the petitioner/Bank. The reasons for making the aforesaid observations are given hereinafter.

2. The facts of the case are that in the subject suit which was pending in the district court, one Sh.Kishan Chand Sharma was asked by the court to deposit an

amount of Rs. 30,35,000/- in the shape of an FDR in the name of the court. This was to be done by Sh.Kishan Chand Sharma pursuant to the order dated 18.1.2002. Pursuant to this order dated 18.1.2002, FDR of the petitioner/Bank in the name of the court was prepared vide FDR No. SFC 824464 dated 22.1.2002. Though the order did not specify the period for which the FDR was to be made, the officer of the petitioner/Bank on his own decided to make the FDR for a period of three years. The period of three years expired on 22.1.2005, and the issue is that whether the petitioner/Bank is thereafter liable to pay only simple interest to the beneficiary of the FD or the FD is to be renewed and the petitioner/Bank cannot take up a stand that it is only liable to pay simple interest.

3. It is also necessary and relevant to state that when the FD was to be encashed with respect to the total amount payable thereunder including interest up-to-date, the petitioner/Bank originally filed a Statement of Account stating that as on 22.1.2013, a sum of Rs. 69,14,155/- was payable. Thereafter, the petitioner/Bank did a volte-face and claimed that the amount of Rs. 69,14,155/- was not payable but only the amount of Rs. 45,95,414 was payable. It is this stand of the petitioner/Bank which has been decided by the impugned order holding that the petitioner/Bank cannot play a game with the court and the Bank was bound to pay the fixed deposit rate of interest and not the simple interest payable on savings bank accounts.

4. The impugned order of the trial court gives the following reasons for holding that the petitioner/Bank is liable to pay interest payable on fixed deposit till the time the same is encashed:-

(i) The FD was given to the court and in the name of the court, and therefore why the officer of the petitioner/Bank made the FD only for three years and not for a larger number of years is not explained, and, if the FDR was only to be for three years, then why there was no automatic renewal term found to be explained by the petitioner/Bank.

(ii) Not only the FD was made by the Bank suo moto for a period of three years, thereafter at the expiry of period of three years there was no communication of the bank either with the Court or with any of the parties to the suit as to whether or not the FD should be renewed or not or the amount should be taken as an amount in a savings bank account.

(iii) Reliance placed by the petitioner/Bank upon its circulars dated 10.12.2008, 13.4.2011, 20.04.2011 etc. is misconceived because those circulars in fact go against the petitioner/Bank, inasmuch as, those circulars require the petitioner/Bank in case of an inoperative account to firstly send the communication to the FD account holder. Thereafter, if no information is received even after communication to the FD account holder is sent, the petitioner/Bank has been mandated to try to communicate with the customer telephonically, via e-mail etc etc. After all this is done and sufficient efforts are made, only thereafter the petitioner/Bank can claim that it is liable to pay simple interest payable on bank deposits and not otherwise. In the facts of the present case, the admitted case of the petitioner/Bank is that no efforts were made whatsoever by the petitioner/Bank to get in touch with the court in whose name the FD was prepared as to whether the FD should be renewed or not or whether the amount of the FD should be put in a savings bank account deposit.

5. I completely agree with the observations of the trial court. Counsel for the petitioner/Bank had no answer when asked to show as to what was the communication which was given by the petitioner/Bank to the court in whose name the FD was prepared, and whether the petitioner/Bank after expiry of the period of three years which ended on 22.1.2005 communicated in which form with the court as to whether the FD is or is not to be renewed. The petitioner/Bank also did not contact in any manner even any of the parties to the suit with respect to the issue of renewal of the FD or otherwise. Therefore, the trial court has rightly held that the petitioner/Bank cannot place reliance upon its circulars and guidelines as stated above.

6. In somewhat similar circumstances, the Supreme Court in the judgment in the case of Bank of India Vs. Nangia Constructions (I) Pvt. Ltd. and Others, has held that the bank gives bank guarantees pursuant to the court cases, and if they are not renewed by the customer for non-payment of renewal charges, the bank guarantee inspite of non-renewal continues to be extendable and valid till enforced. The Supreme Court has also held that people''s confidence in business transactions depends on the credibility of the nationalized banks, and which will be shaken in case the banks start dishonouring their commitments by adopting subterfuges.

7. In the present case, the action of the petitioner/Bank is condemnable to say the least besides the petitioner/Bank in my opinion being possibly guilty of contempt of court, and with respect to which I need not to say further because that will depend upon the concerned court or any of the party who has been harassed. However, one thing is writ large that certain officers of the petitioner/Bank think that they are above the law and they can seek to get away with their most malafide and illegal actions. This is totally unacceptable to say the least.

8. In view of the above, though while dismissing this petition with costs of Rs. 30,000/- in favour of respondent no. 2 who is one of the beneficiaries of the FD, let a copy of this order be placed before the Board of Directors of the petitioner/Bank for the Board of Directors of the petitioner/Bank to know as to how certain officers of the petitioner/Bank are acting in a most gross and malafide manner thereby seeking to over-reach the court processes. Copy of this order be also sent to the Finance Secretary and also the Finance Minister by the registry of this Court through special messenger for the Authorities to take notice and accordingly to take necessary actions against the petitioner/Bank and its those offices who have caused undue harassment to the beneficiary of the FD in this case. Copy of this order be also sent by the registry of this Court to the concerned authority in the Reserve Bank of India with respect to the actions of

the petitioner/Bank. Even the petitioner/Bank itself besides placing a copy of this order before the Board of Directors will also send a copy of this order to the Reserve Bank of India and the petitioner/Bank will file an affidavit of the compliance of the terms of the present order in this Court within a period of four weeks from today, and in case the petitioner/Bank fails to comply with the same, the respondent no. 2 can bring the same to the notice of this Court by filing an appropriate application.

9. The petition is dismissed in terms of the aforesaid observations.