(1991) 07 MP CK 0010

In the Madhya Pradesh High Court

Case No : F.A. No. 111 of 1987

Punjab National Bank APPELLANT

Vs

Mullu Singh and Others RESPONDENT

Date of Decision : 17-07-1991

Acts Referred:
Banking Regulation Act, 1949 — Section 21A

Citation : (1992) 37 MPLJ 192 : (1992) MPLJ 192

Hon'ble Judges : K.M. Agrawal, J

Bench : Single Bench

Advocate : J.P. Sanghi, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

K.M. Agarwal, J.

This appeal by the plaintiff-Bank is directed against dismissal of a part of its money claim against the respondents.

The appellant is a nationalised Bank. On 9-10-1975 and 16-10-1975 loans of Rs., 26,000/- and Rs. 2,900/- respectively were advanced to the respondent No. 1. The respondents 2 and 3 stood sureties for repayment of the said bans. As the loans were not discharged, the appellant brought a suit for recovery of a sum of Rs. 43,981.71 p. against the respondents. The suit was resisted by the respondents, but it was partly decreed to the extent of Rs. 39,052/- with interest at the rate of 6% per annum on the amount of Rs. 29,000/- with effect from 17-1-1980 to the date of payment. Being aggrieved by partial dismissal of its claim, the Bank has preferred this First Appeal.

Having heard the learned counsel for the appellant, I am of the view that Court below committed an error in reducing the claim of the appellant from Rs. 43,981.71 P. to Rs. 39,052/-. The reasons for reducing the claim of the appellant to the extent of Rs. 4,929.71 p. are contained in paragraphs 8 and 11 of the impugned judgment. The reasons do not appear to be sound. In paragraph 8 of the impugned judgment, it has been stated that in view of the provisions of Section 45 of Usurious Loans Act, the appellant was not entitled to claim compound interest at a rate more than 12% per annum, or with six monthly rests. It appears that the Court below lost sight of the provisions of Section 21A of the Banking Regulation Act, 1949, which provides as follows : -

Notwithstanding anything contained in the Usurious Loans Act, 1918 (10 of 1918), or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any Court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive.

As held in Kamla Prasad Jaiswal v. Punjab National Bank and 2 others, First Appeal No. 191 of 1986, decided on 31-1-1991. Section 21A of the Banking Regulation Act relates to procedural law and applicable to the transactions prior to the date of insertion of Section 21A of the Banking Regulation Act. The appellant was, therefore, entitled to interest at the rate of 13% per annum with six monthly rests, as agreed to between the parties and as mentioned in the initial loan document dated 9-10-1975 (Ex.P-9).

Clause 4 of the letter of hypothecation (Ex.P-10), which begins at page 2 specifically empowered the Bank to insure the Tractor financed by it and to credit the amount of premium paid to the loan account of the respondent No. 1. The Bank was also entitled to interest on the amount of premium so paid. Accordingly, the Court below was not correct in denying interest to the Bank on the amount of insurance premium paid by it on behalf of the respondent No. 1. The reasons contained in paragraph 11 of the impugned judgment for denying Such claim of the Bank are, therefore, not sustainable.

So far as the pendentelite interest and post decree interest are concerned, I am of the view that it would not be proper to enhance the rate of interest awarded by the Court below but it would serve the ends of justice if the interest is made payable on the entire decretal amount at the rate of 6% per annum from the date of suit till the date of payment, instead of restricting it on the principal amount.

For the foregoing reasons, this appeal succeeds and it is hereby allowed. The impugned decree passed by the Court below is modified by directing that the appellant shall be entitled to recover a sum of Rs. 43,981.71 p. jointly and severally from the respondents with interest on the entire amount at the rate of 6% per annum from 17-1-1980 until the date of payment. As no one appeared to oppose the appeal, I make no order as to cost of this First Appeal.

