

**(2008) 08 PAT CK 0076**  
**In the Patna High Court**

|                                         |            |
|-----------------------------------------|------------|
| Radha Flour Mills Pvt. Ltd. and Another | APPELLANT  |
| Vs                                      |            |
| Bihar State Financial Corpn. and Others | RESPONDENT |

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**Date of Decision :** 06-08-2008

**Acts Referred:**

**Citation :** AIR 2009 Patna 12 : (2009) 1 PLJR 671

**Hon'ble Judges :** Navaniti Prasad Singh, J

**Bench :** Single Bench

**Final Decision :** Allowed

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**Judgement**

Navaniti Prasad Singh, J.—Heard.

2. This case exemplifies how statutory authorities act unmindful of law and in total disregard thereof.

3. The petitioner company was sanctioned a loan of Rs. 54 lakhs for setting modern roller flour mill in 1987. Though, the total disbursement was of Rs. 37,75,889.66 paisa. The petitioner appears to be one of those units which had decided to liquidate its liability without any coercive measures being taken against it. It appears that on 24-5-2005 from the Branch Office at Motihari of the respondent-Corporation from which loan had been originally disbursed, petitioner received statements of account showing a total outstanding of Rs. 6,12,361.70 paisa. The petitioner on the same very day paid the entire amount and thereafter requested for being granted a no-dues certificate. After two months, the petitioner was informed that after meticulously recalculating the dues of the petitioner, it is found that an amount of Rs. 1,54,966.95 paisa is still due and if the petitioner pays the same amount by 31-8-2005 no-dues certificate would be issued. Correspondences were then exchanged with petitioner protesting as per accounts furnished the total outstanding shown therein was paid by the petitioner, then, on what account such huge dues are now projected against him. While, all these was going on, ultimately, from the Head Office of the Corporation letter dated 3-4-2007 (Annexure-18) was issued. Paragraph 1, thereof, is

important and quoted hereinbelow:

4. There was mistake in charging interest in your loan account in the initial stage as per details given below:

|           |           |          |                    |           |
|-----------|-----------|----------|--------------------|-----------|
| Sr. No.   | H.Y.      | ending   | Amt. of less Intt. | Charged   |
| 1.        | 28-2-1990 |          | 3004.85            | 2.        |
| 28-2-1991 |           | 4856.80  | 3.                 | 31-8-1991 |
|           |           | 2349.75  | 4.                 | 28-2-1992 |
|           |           | 4398.00  | 5.                 | 28-2-1993 |
|           |           | 15093.00 |                    |           |

5. The above amount of less interest charged in your account together with consequential interest thereon at the prescribed rate has led to creation of dues of Rs. 1,55,489.95 as on 31-8-2005, which is payable to you.

6. The letter clearly states that having examined the representation of the petitioner in detail and carefully the above position occurs. A reference, thus, to the aforesaid paragraph of the letter would show that more than a decade and a half back some accounting errors were committed by the Corporation of small amount which all put together on recasting the account for the 20 years with accrued interest. On such wrong accounting petitioner was now held liable to pay Rs. 1,55,489.95 paisa. In other words, what is said is that due to Corporation's accounting mistake of about Rs. 29,000/- made, more than a decade and a half back, petitioner must suffer and pay over Rs. 1.50 lakhs as compensation to the Corporation for Corporation's own mistake.

7. This Court is amazed. The demand of the Corporation is nothing but same that a decade and a half back I committed a mistake for which you shall now be punished. Such a stand cannot be countenanced on any principle of law. What at best the Corporation could have demanded was the interest, which was not by mistake charged but to demand interest over that amount which was never demanded from the petitioner cannot be sustained. It would only be putting a premium on default being committed. I fail to understand that under what law can the petitioner made to suffer for a mistake committed not by him but by the Corporation itself.

8. In my view, if such an action is permitted, the result would be that by such a delayed action the Corporation would gain at expense of the entrepreneur for its own mistake. Had the Corporation made the demand, when it was due? Petitioner would have paid and avoided the heavy interest burden and which is sought to be enforced against him. Now, this, in my view, is wholly arbitrary, unreasonable and unjust enrichment on the part of the Corporation and cannot be permitted.

9. Here, I may quote from a recent decision of the Apex Court in the case of Kusheshwar Prasad Singh v. The State of Bihar 2007 AIR SCW 1911.

...It is settled principle of law a man cannot be permitted to take undue and unfair advantage of his own wrong to gain favorable interpretation of law. It is sound principle that he should prevent a thing from being done shall not avail himself of the non-performance he has occasioned. To put it differently, "a wrong

doers ought not to be permitted to make a profit out of his own wrong...."

10. In view of the aforesaid, I am left with no option but to quash the demand as made by the Respondent-Corporation from the petitioner on account of their own default. Keeping in view equities, I direct that the amount of less interest charged and shown in the letter dated 3-4-2007 (Annexure-18), which totals to Rs. 29,702.40/- is the only amount that the petitioner is required to pay. On petitioner paying the said amount to the respondent-Corporation, the respondent-Corporation would be obliged to issue no-dues certificate and return all documents of total which they are holding in respect of the petitioner. The same should be done within six weeks from today.

11. The writ petition, thus, stands allowed.