

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2021

BEFORE

THE HON'BLE MR.JUSTICE P.S. DINESH KUMAR

WRIT PETITION No.42815 OF 2019 (GM-RES)

BETWEEN :

MR. SHEKAR B.S.
S/O LATE SOME GOWDA
AGED ABOUT 59 YEARS
RESIDING AT NO.60, 2ND PHASE
CLASSIC ORCHARD LAYOUT
BANNERGHATTA ROAD
BANGALORE-560 076

...PETITIONER

(BY SHRI. RAGHAVENDRA ACHAR FOR
SHRI. M. NAGARAJU, ADVOCATES)

[THROUGH VIDEO CONFERENCE]

AND :

1. CHIEF GENERAL MANAGER
SYNDICATE BANK
VIJAYANAGARA BRANCH
BANGALORE-560 040

2. OMBUDSMAN
RESERVE BANK OF INDIA
NRUPATHUNGA ROAD
BANGALORE-560 001

... RESPONDENTS

(BY SHRI. M. MOHAN RAO, ADVOCATE FOR R1;
R2-SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER OF OMBUDSMAN ADVISORY AND CLOSURE LETTERS - 13 AND BOS-2006 DATED 29.05.2019 ANNEXURE-M AND DIRECT THE BANK TO REFUND THE EXCESS RECOVERED AMOUNT OF RS.1,47,979/- ALONG WITH INTEREST OR ADJUST IT TO HIS FUTURE LOAN ACCOUNT.

THIS WRIT PETITION COMING ON FOR *PRELIMINARY HEARING* IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This writ petition is filed challenging order dated 29.05.2019 passed by respondent No.2 as per Annexure-M.

2. Petitioner has availed housing loan from respondent No.1-bank on 14.02.2007 at prime lending rate of 11.75% p.a. The bank, vide Circular dated 30.06.2010 (Exhibit R2) has reduced the rate of interest to 8.25% with effect from 01.07.2010. Petitioner has filed an application with the bank on 24.01.2017. The interest has been reduced by the bank with effect from 24.01.2017.

3. Petitioner's grievance is, bank has collected interest at the rate of 11.75% p.a. between 01.07.2010 and 24.01.2017 and the same is illegal. Petitioner has

approached the bank Ombudsman and his complaint has been closed on 29.05.2019. Hence, this writ petition.

4. Shri Raghavendra Achar, learned advocate for petitioner submitted that as per the Circular dated 30.06.2010(Exhibit-R2) the bank has reduced the lending rate to 8.25%. However, they have collected interest at the rate of 11.75%. and Ombudsman has not considered petitioner's case objectively.

5. Shri Mohan Rao, for the first respondent-bank argued justifying interest at 11.75%. He submitted that Annexure-R2 makes it clear that petitioner had an option to switch over to the new system and if he had made an application at an earlier point of time, the bank would have considered the same. Since the petitioner has submitted his application on 24.01.2017, bank has given the benefit and reduced the rate of interest from that date.

6. I have carefully considered rival submissions and perused the record.

7. In the circular as per Annexure R2, it is stated thus:

"Existing loans linked to BPLR will run till their maturity. However, if any of the existing borrowers want to switch over to the new system, before expiry of the existing contracts, an option will be given to them to switch over. However, no charges will be levied for such switch over."

8. Bank's justification is, petitioner has not opted for switchover to a new system. The fact remains that bank has reduced the rate of interest from 11.75% to 8.25% with effect from 24.01.2017. It is a housing loan. The stand taken by the bank that petitioner has not requested earlier to switchover to lesser rate of interest is untenable. Bank is owned by the Central Government and the change in rate of interest from time to time should be made applicable uniformly. In the circumstance, this petition merits consideration. Hence, the following:

ORDER

- i) Writ petition is **allowed**;
- ii) Order dated 29.05.2019 passed by respondent No.2(Annexure-M) is quashed;

iii) First respondent bank is directed to give effect to the Circular No.158-2010-BC-RMD-10 dated 30.06.2010 and petitioner be given benefit of reduction in rate of interest on the housing loan from that date;

iv) The excess interest deducted shall be refunded to the petitioner.

No costs.

**Sd/-
JUDGE**

Yn.