(2006) 04 P&H CK 0128

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Sarupa		APPELLANT
	Vs	
Punjab National Bank and Another		RESPONDENT

Date of Decision: April 25, 2006

Citation: (2007) 3 BC 92

Hon'ble Judges: Surya Kant, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Surya Kant, J.

This Regular Second Appeal has been filed by the defendant against whom a suit for recovery of an amount of Rs. 1,49,606/- filed by the respondent-Bank was decreed by the learned Trial Court and he was directed to pay the said amount along with interest @ 17.5% per annum with half yearly rests from the date of filing of the suit till its actual realization and whose first appeal against the above said judgment and decree, was also dismissed by the learned first appellate Court vide its judgment and decree dated 28.5.2001.

2. Learned Counsel for the appellant has made two-fold submissions. Firstly, it is contended that the loan was advanced by the Bank for agricultural purposes, therefore, the rate of interest could not have been more than 6% per annum. His second contention is that even as per the agreement and the promissory note, Ex. P8, the rate of interest was 12.5% per annum with half yearly rests with 2% penal interest and, thus, the respondent-Bank could not have been awarded interest @ 17.5% pet-annum by the Courts below.

3. As far as the first contention is concerned, no such specific plea was taken by the appellant before the Courts below and in the absence of any issue framed in relation thereto, he cannot be permitted to agitate the same for the first lime in this second

appeal.

4. So far as the second contention is concerned, one can find the answer in para 13 of the judgment passed by the learned first appellate Court. Relying upon the statement of the Bank official, Mr. F.C. Taneja, who appeared as PW2, a categoric finding of fact has been returned that as per the agreement between the parties, the rate of interest was revisable and was actually revised to 15.5% per annum with half yearly rests with 2% penal interest. This is what precisely has been granted by both the Courts.

5. Faced with this situation, Mr. Gupta, learned Counsel for the appellant contends that in view of the judgment of the Supreme Court in the case of Central Bank of India Vs. Ravindra and Others, , the respondent-Bank could not have been permitted to capitalize the penal interest.

6. The contention noticed above is purely a question of fact. There is not even a whisper in the judgments under appeal that the account statements were summoned by the appellant in order to show that the penal interest, charged by the Bank, has been ''capitalized'' contrary to the principles laid down by the Apex Court. The appellant, therefore, cannot take any advantage of the aforementioned judgment without laying a factual foundation to substantiate the same.

7. The concurrent finding of fact returned by both the Courts gives rise to no question of law, much less any substantial question of law.

Dismissed.