

IDBI Bank Limited v. Ramdas Shankar Satras & Ors.

IDBI Bank Limited

...Appellant

Ramdas Shankar Satras & Ors.

...Respondent

Case No: Appeal No. 68/2019

Date of Judgement: 05/12/2023

Judges:

Mr Justice Ashok Menon, Chairperson

For Appellant: Mr V. V. Chandavale, Advocate.

For Respondent: None.

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Facts:

The case involves an appeal filed by IDBI Bank Limited (Appellant) against the dismissal of Original Application (O.A.) No. 281 of 2012 by the Debts Recovery Tribunal, Pune (D.R.T.), vide judgment and order dated 22.06.2015. The O.A. was filed by the Appellant bank under Section 19(1) of the Recovery of Debts Due to Banks & Financial Institutions Act, 1993 (RDDB & FI Act), for the recovery of ₹1,076,410/- together with future interest from the defendants. The 1st defendant was the principal borrower, defendants 2 to 12 were the mortgagors, and defendants 13 and 14 were the guarantors for the loan. The 1st defendant approached the Appellant bank on 11.08.2008 for financial assistance of ₹7 lakhs to purchase a tractor, accessories, and implements for the improvement and development of immovable properties. The 1st defendant executed necessary security documents in support of the loan transaction on 01.09.2008. Defendants 2 to 12

executed a Power of Attorney authorizing the 1st defendant to execute a mortgage concerning their properties to secure the loan. The 1st defendant, using the Power of Attorney, executed a mortgage in favor of the bank. The tractor and other implements were delivered to the 1st defendant. Repayment of the debt was defaulted, and the bank issued reminders to the defendants on 02.01.2011 and 21.02.2011, calling upon them to repay the overdue amounts. On 22/08/2011, defendants 1 to 3 confirmed the balance due to the bank. Repeated notices were issued to the defendants for payment, which went unheeded. The Appellant appropriated the available collateral fixed deposit of the 1st defendant for ₹62,308/- towards the loan amount. The Appellant then filed the O.A. to realize the balance amount due.

Argument by the Appellant:

The Appellant's counsel, Mr. V.V. Chandavale, appeared and argued in support of the appeal.

Court's Elaborate Opinions:

The Learned Presiding Officer (Ld. Presiding Officer) had observed in the impugned judgment that "the Applicant has led evidence dehors the pleadings." The Ld. Presiding Officer noted that the Applicant did not adduce any evidence concerning the statement of accounts and did not seek leave to lead secondary evidence for the calculation of interest. The document produced was a photocopy, and no notice was issued to the guarantors for invoking the guarantee. The D.R.T. observed that entries, including penal interest and legal charges, had been capitalized. The Ld. Presiding Officer also noted inconsistencies in the amount claimed. The Ld. Presiding Officer observed that even if the D.R.T. had proceeded based on the letter of acknowledgment of debt, which was only for ₹7 lakhs, the claim would be outside the purview of the D.R.T. The Ld. Presiding Officer dismissed the O.A. because the claim was not proved, and the statement of account certified under the Bankers' Books Evidence Act was not produced. The Appellate Tribunal observed that Exhibit-A-20, which is the statement of account, was not referred to by the Ld. Presiding Officer. The Appellate Tribunal noted that when the documents produced by the

Applicant are uncontroverted, they must be accepted, as the defendants did not contest the O.A. The Appellate Tribunal stated that there was no justification in dismissing the O.A. and rejecting the uncontroverted claim of the Applicant, as long as it was not barred by limitation.

Sections and Laws Referred:

Section 19(1) of the Recovery of Debts Due to Banks & Financial Institutions Act, 1993 (RDDB & FI Act) – The O.A. was filed under this section by the Appellant bank for the recovery of debts.

Bankers' Books Evidence Act – The Ld. Presiding Officer noted that the statement of account certified under this act was not produced.

Cases Cited:

No specific cases were cited in the document.

Interim Order:

The Appellate Tribunal allowed the appeal and quashed and set aside the impugned judgment and order dismissing O.A. No. 281 of 2012. The O.A. was allowed as prayed for, directing the defendants to pay a sum of ₹10,76,410/- together with interest at the rate of 15% per annum from the filing of the O.A. till the date of disposal of the O.A. (22.06.2015), and future interest at the rate of 6% per annum on the principal amount adjudged from the date of the decree till realization from the defendants personally, out of the hypothecated movables and the mortgaged properties. The Appellant was also entitled to the costs of proceedings throughout. A Recovery Certificate was issued per the terms described above.