

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NO. _____/2024

[Diary No. 10298/2024]

WITH

IA No. 57127/2024

IN

CIVIL APPEAL NO.6564/2023

LEELAWATI DEVI & ANR.

...Appellant(s)

VERSUS

DISTRICT COOPERATIVE BANK LTD.

...Respondent(s)

O R D E R

1. The respondent Bank has filed an application for recall of the order passed by this Court on 03.10.2023 allowing the appeal and an application for condoning the delay in filing it. The reason for recall is that the bank was not noticed before passing of the final order.

2. We have heard the learned counsel for the appellants and the respondent in detail. After hearing the parties, we have decided to give the respondent an opportunity and therefore, the application for condoning the delay as well as the application for recalling the order of this Court dated 03.10.2023 are hereby allowed.

3. The order impugned is the decision of the National Consumer Dispute Redressal Commission ("NCDRC") in Revision Petition No. 2161 of 2014 dated 21.10.2020.

4. The appellants filed a consumer complaint before the District Consumer Forum for encashment of Fixed Deposit Receipts ("FDRs") of Rs. 1,60,000/- that they had deposited with the respondent (District Cooperative Bank Ltd., Durga Kund Branch, Varanasi), which they were not permitted to withdraw. The District Consumer Forum allowed the complaint and directed refund of the amount along with 15% interest and Rs. 25,000/- as compensation. The respondent Bank filed an appeal before the State Commission Consumer Dispute Redressal Forum, Lucknow, which came to be dismissed by order dated 07.02.2014. The respondent then preferred a revision before the NCDRC, which was allowed by the impugned order dated 21.10.2020. The relevant portion of the impugned order is as under:-

"6. That it is specifically stated that in this particular case, the original F.D.Rs. were issued on 10.07.1993 but the Day Book and supplementary book of the appellant-bank do not show any amount to have been deposited in the fixed deposit on 10.07.1993 and thus the said F.D.Rs. have been obtained by respondent No. 1 in a fraudulent manner without depositing any amount; however, in the fixed deposit ledger the amount of fixed deposit has been fraudulently shown to have been credited by transfer. These facts were revealed during an enquiry conducted by an officer of the Bank.

7. That it may also be mentioned here that the original F.D.Rs. issued on 10.07.1993 bear the following numbers- 13/2, 13/3, 13/4, and 13/5; which do not bear the signatures of the Manager who is the only competent authority to issue F.D.Rs. on behalf of the appellant- Bank who was not authorized to issue an F.D.R. on behalf of the appellant-bank."

5. It is seen from the record that the District Forum was satisfied that the appellants had in fact handed over Rs. 1,60,000/- to the Bank's officials. This is evidenced from the Bank's ledger. The record further discloses that an enquiry committee had been set up by the Bank that recommended initiation of criminal proceedings against certain officials and the Bank had adopted that course. It is also a fact that the FDRs were renewed from time to time.

6. The findings of the NCDRC are contrary to record and cannot be sustained. The Bank is vicariously liable for the acts of its employees.

7. In view of the above, while agreeing with the conclusions drawn by this Court in its order dated 03.10.2023, we are of the opinion that the appeal must be allowed by setting aside the judgment of the NCDRC in Revision Petition No. 2161 of 2014 dated 21.10.2020, and we hereby restore the order of the District Forum in Case No. 105/1995 dated 20.10.1997. We further direct the Bank to comply with the terms of the District Forum's order within eight weeks from the passing of

this order, failing which the appellants are free to initiate execution proceedings.

8. We are of the opinion that the reasons and conclusions in the order of this Court dated 03.10.2023 are correct and for the same reasons we allow the appeal.

9. Pending application(s), if any, shall stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ARAVIND KUMAR]

New Delhi
April 15, 2024.

ITEM NO.16

COURT NO.16

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION Diary No(s). 10298/2024 in C.A. No. 6564/2023

LEELAWATI DEVI & ANR.**Appellant(s)****VERSUS****DISTRICT COOPERATIVE BANK LTD.****Respondent(s)****(IA No. 57127/2024 - RECALLING THE COURTS ORDER)****Date : 15-04-2024 These matters were called on for hearing today.****CORAM :**

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) Ms. Deepika Mishra, Adv.
 Mr. Abhishek Misra, Adv.
 Mrs. Rachna Gupta, AOR

Mr. Murari Kumar, Adv.
 Mr. Neeraj Shekhar, AOR
 Mr. Animesh Kumar, Adv.
 Ms. Lisha Saha, Adv.
 Mr. Shiv Shankar, Adv.
 Mr. Kartik Yadav, Adv.
 Mrs. Kshama Sharma, Adv.
 Mr. Kartik Kumar, Adv.
 Mrs. Priya Parmar, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. Application seeking condonation of delay in filing the restoration application is allowed. Application for

restoration is allowed. Miscellaneous Application is disposed of accordingly.

2. Civil Appeal is restored and is taken on board.

3. The Civil Appeal is allowed of in terms of the signed order.

4. Pending application(s), if any, shall stand disposed of.

(INDU MARWAH)
AR-CUM-PS
(SIGNED ORDER IS PLACED ON THE FILE)

(NIDHI WASON)
COURT MASTER (NSH)