

RASTHAN FINANCIAL CORPORATION
(FR SECTION)

Ref.No.RFC/FR/HO/Policy-28/927

Dated: 06.07.05
20

C I R C U L A R
(FR No. 352)

Sub: Important Court Decision

S.B.Civil Writ Petition No. 4592/01-Hanuman Prasad Vs RFC & Ors.

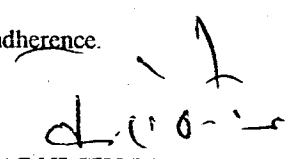
The Hon'ble High Court at Jodhpur in the case of Hanuman Prasad Vs RFC & Ors. observed that RFC failed to take any step for recovery of the loan amount and even failed to take any action for holding any enquiry in the matter. A copy of orders passed by the Hon'ble High Court on 25.05.05 is enclosed.

In the light of observations made by Hon'ble High Court, all Branch Incharge are enjoined upon that they should review all the cases without any delay and ensure that there is no inaction in recovery of dues on the part of BOs and all efforts are made for realisation of dues of the Corporation. If there is any action required to be taken at the level of HO, the matter be forwarded to FR Section at HO immediately.

In furtherance to above, following actions should also be taken in order to achieve the object of arresting NPA, carry out inspection & monitoring of assisted units effectively and regularising already slipped accounts:-

1. Compliance of FR Circular No. 342 dated 19th April, 2005 issued regarding Recovery Strategy 2005-06 and FR Circular No. 348 dated 13.06.05 regarding inspection & monitoring of assisted units should be made without any fail and consolidated report sent to GM(D) by the concerned DGM(R).
2. Default Review Committee should meet on regular basis as per provisions contained at Clause 1.58(a) & (b) of FR PG.
3. The Branch Manager shall review all the cases where no payments have been received after April, 2004 and decide further line of action to affect recovery and send consolidated report to DGM(R) who in turn shall sent it to GM(D) by July, 2005 positively.

All concerned are advised to take a note of above for strict adherence.


(KARNI SINGH RATHORE)
Chairman & Managing Director

Encl: As above

Copy to:

1. All ROs/BOs/Sub Offices
2. DGMA&I), WZ, Ajmer
3. Nodal Officers/ Officers designated
4. Standard circulation

सुप्रीम कोर्ट, नया दिल्ली

S.B. CIVIL WRIT PETITION NO. 4592/2001

HANUMAN PRASAD vs. RFC and ORS.

Date : 25.5.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Vinay Jain, for the petitioner.

Mr. NM Lodha, for the respondents.

Heard learned counsel for the parties.

The petitioner in the writ petition admitted that he applied for loan for purchasing Paper Converting Machine for his firm M/s. Agarwal Paper Converts. The petitioner is also sole proprietor of "Dainik Jupiter" and doing business at Bhilwara and engaged in the business of newspaper publishing as mentioned in para no.2 of the writ petition. The petitioner states that though he applied for loan and completed the formalities for getting the loan amount to some extent but thereafter, the petitioner drop the idea to avail the loan.

The application submitted by the petitioner for loan is shown by the learned counsel for the respondent RFC from the original record which has been brought in the Court pursuant to the order dated 16.2.2005 by which it appears that amount of Rs.200/- was deposited by the petitioner as back as on 21.6.1988 which may be amount for processing the petitioner's case for loan. It appears from the record

162
128

shown by RFC that not a single penny has been repaid by the petitioner to RFC despite the fact that according to RFC, the loan of Rs.75,000/- was sanctioned on 1/7.3.1989 and Rs.69,000/- were paid by RFC vide cheque no.04250 dated 11.9.1989 and for which according to RFC, the petitioner gave a receipt.

This Court after going through the facts of the case issued notice to RFC and on 16.2.2005, this Court directed RFC to keep the complete file of the petitioner's case in the Court. The order of this Court dated 16.2.2005 is as under :-



"The respondent is directed to keep the complete file of the petitioner's case in which the loan was sanctioned to the petitioner and amount of Rs.69,000/- were paid in the year 1989 and according to RFC, no amount has been deposited by the petitioner at any point of time for repayment of loan or part of loan in last almost more than 14 years and against whom, no effective steps have been taken by RFC except serving one after another notice despite the fact that this Court dismissed the first stay petition filed by the petitioner on 29.4.2003.

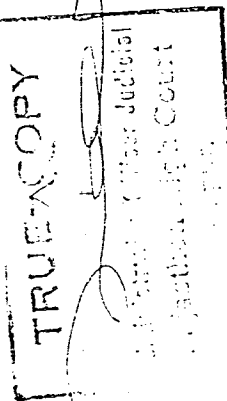
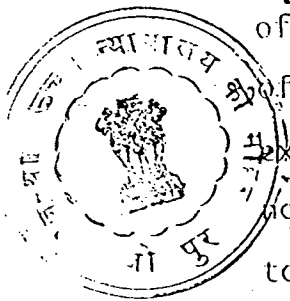
list this matter on 1.3.2005, as prayed."

It appears from the entire record of RFC as well as stand taken by the RFC that all the concerned officers of

RFC failed to take any step for recovery of the loan amount and even failed to take any action by holding any enquiry in the matter even after knowing the stand of the petitioner that he did not took any loan amount. It appears from the record that several notices were issued to the petitioner by the RFC under Sections 29/30 of the State Financial Corporation Act (for short 'SFC Act') but it appears that those notices were issued only for the purpose of not recovering the advance amount and to save the skin of persons who were dealing with the matter. There is no explanation why the proceedings under Section 29 for which notices were issued long ago in the year 1995 or even prior to that, were not taken to a logical end. For the reasons best known to the respondent RFC, they initiated the proceedings under Section 32G of the SFC Act.

Even this Court dismissed the stay petition filed by the petitioner on 29.4.2003. Still no effective steps have been taken by the officers of RFC and two years have passed already.

Interestingly, the petitioner preferred the writ petition before this Court in the year 2001 and four years have passed. The petitioner got the knowledge of the fact that the loan amount has been paid by the RFC on the application of the petitioner and according to the petitioner, that amount was not paid to the petitioner, still no action was taken by the petitioner of lodging any F.I.R. against any person who took the loan amount on the petitioner's application nor he has accused any officers of



160
176

and proper to make request to the petitioner of re-payment so that the public money can be saved, but nothing was done and as such again a request for re-payment of over dues amount was made vide communication dated 17.11.90...."

The facts mentioned above clearly reveals that how public interest has been saved by the respondents.

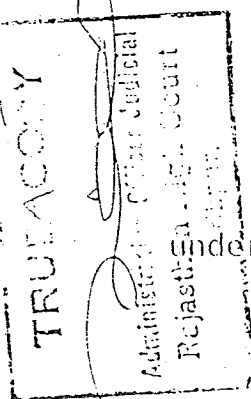
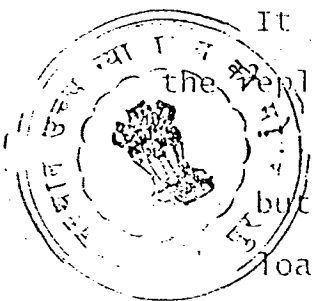
It has been stated by the respondent RFC in para 6 of the reply as under :-

the petitioner was extended full cooperation, but the petitioner gave reply and said that no loan was taken by him. Thereafter the petitioner was asked for personal discussions. However, when nothing was done for re-payment, then again a notice was sent to the petitioner for the purpose of initiation of proceedings U/S 29/30 of the Act vide notice dated 6-11-95 but no payment was made and as such ultimately legal notice was given on 5.1.96...."

The respondents in the same para further submitted as under :-

"...the petitioner was also informed about the one time settlement scheme vide communication dated 30.7.96 (1.8.96)...."

This Court also noticed the cooperation of the



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respondents to the petitioner. Why the proceedings under Section 29/30 of the SFC Act were not taken, it has not been disclosed by the respondents? That may be one of the further example of cooperation to the petitioner defaulter by the respondents.

Copy of this order be sent to the Managing Director, RFC, Jaipur who shall submit an affidavit explaining the reasons for not taking action for recovery of loan amount in time and causing loss to the public exchequer and the reason for not taking action against the guilty persons working in RFC and submit what efforts can be made by RFC for recovery of damages from the employees of RFC.

List this matter on 5.7.2005 at the top of cause list as first case.

Record perused and returned back to learned counsel for the respondent.

S. Phophaliya

(PRAKASH TATTA), J.

No. 7/496

Date 4/8/05

Copy Forwarded to the Following for Information and necessary action.

1. Managing Director, Rajasthan Financial Corporation, Udhveg. Bhawan, Tilak.
2. Mang, Jaipur.

Administrative Officer Judicial
Rajasthan High Court
Jodhpur.