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O.A. No.283/2009

ORDER DATED 4<sup>th</sup> August, 2009

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

R. Puri..... Applicant.

V.

Union of India & Ors. .... Respondents.

Aggrieved by the recovery of penal interest from the applicant as per letter dated 16.01.09 (Annexure-3), this Original Application has been filed by the applicant, with the following prayer:-

"The Hon'ble Tribunal may graciously be pleased to quash Annexure-3 dated 16.01.09 which relates the effect of the recovery from the applicant and direct to the Respondent No.2 for re-conveyance of the mortgage deed No.243 dated 20.03.90 which has already been reconveyed during the period of 2007 and return of original sale-deed and approved plan and estimate of Bhubaneswar Development Authority.

Or

Pass any other order/orders as this Hon'ble Tribunal deem fit and proper as per the circumstances of the case"


2. Heard Sri A. Swain, Ld. Counsel for the applicant, Sri S.B. Jena, Ld. Counsel for the Respondents appearing on notice and perused the materials placed on record.

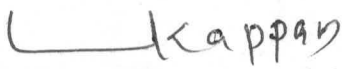


3. The question raised in this O.A arises out of an agreement between the Government and the applicant pertaining to a House Building Advance (HBA). The applicant now submits that as he has already retired from service and has already paid all the dues to the Government through the Respondent No.3. The Respondent No.4 has no power to issue an order imposing penal interest on the applicant. The applicant has also taken the same stand in his representation dated 24.02.09 (Annexure-A/4). The case now set up by the applicant involves interpretation of the terms and conditions in the agreement. If so, we are not inclined to decide the case on merit. We feel that it is an accounting matter between the <sup>mortgagee mortgagee</sup> employer and the <sup>mortgagee</sup> employee. If so, it is proper for this Tribunal to direct the Respondent No.4 to consider Annexure-A/3 representation and give an answer thereon to the applicant. If it is necessary, the applicant may also be heard before taking a decision on the representation.

4. It is also made clear that till the decision is taken, the order under Annexure-A/3 shall be kept in abeyance.

5. With the above observation and direction, this Original Application is disposed of at the stage of admission itself. No costs.

  
(C. R. MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K. THANKAPPAN)  
JUDICIAL MEMBER