

**IN THE HIGHCOURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 8TH JULY, 2024**

REVIEW PETITION No. 128 of 2024

BRANCH MANAGER UCO BANK

Vs

*GIRDHARILAL TARUN KUMAR MODI HUF KARTA TARUN KUMAR MODI AND
OTHERS*

Appearance:

(SHRI TARANG CHELAWAT, LEARNED COUNSEL FOR THE PETITIONER)

***(SHRI TARUN KUMAR MODI, LEARNED COUNSEL FOR THE
RESPONDENT)***

REVIEW PETITION No. 168 of 2024

BRANCH MANAGER

Vs

*GIRDHARILAL RAMKARAN MODI (HUF) KARTA NANDKISHORE MODI AND
OTHERS*

Appearance:

(SHRI TARANG CHELAWAT, LEARNED COUNSEL FOR THE PETITIONER)

(SHRI TARUN KUMAR MODI, LEARNED COUNSEL FOR THE RESPONDENT)

REVIEW PETITION No. 169 of 2024

BRANCH MANAGER

Vs

*GIRDHARILAL NANDKISHORE MODI (HUF) KARTA NANDKISHORE ATMAJ
GIRDHARILAL JI MODI AND OTHERS*

Appearance:

((SHRI TARANG CHELAWAT, LEARNED COUNSEL FOR THE PETITIONER)

***(SHRI TARUN KUMAR MODI, LEARNED COUNSEL FOR THE
RESPONDENT)***

REVIEW PETITION No. 170 of 2024

BRANCH MANAGER

Vs

NSA MODI PARIWAR (HUF) KARTA NANDKISHORE MODI AND OTHERS

Appearance:

(SHRI TARANG CHELAWAT, LEARNED COUNSEL FOR THE PETITIONER)

(SHRI TARUN KUMAR MODI, LEARNED COUNSEL FOR THE RESPONDENT)

REVIEW PETITION No. 171 of 2024

BRANCH MANAGER

Vs

G.L. MODI LEGAL HEIR NANDKISHORE ATAMJ GIRDHARILAL JI MODI AND OTHERS

Appearance:

(SHRI TARANG CHELAWAT, LEARNED COUNSEL FOR THE PETITIONER)

(SHRI TARUN KUMAR MODI, LEARNED COUNSEL FOR THE RESPONDENT)

ORDER

1. This order shall also govern the disposal of all the connected Review Petitions No.128/2024,168/2024,169/2024,170/2024 and 171/2024 as in all these cases identical issues are involved. For the sake of convenience, the facts as narrated in R.P.No.128/2024 are being taken into consideration.

2. This review petition has been filed for review of the order dated 11.9.2023 passed by this Court in CR.Nos.419/2023,418/2023, 420/2023,421/2023 and 422/2023 wherein civil revisions were preferred by the petitioner/applicant UCO Bank against the order dated 17.4.2023 passed by the Executing Court in execution case No.31-A/2014, directing the Applicant/Bank to pay the FDR amount along with interest @ 10% compounded quarterly.

3. The aforesaid revisions were disposed of by this Court vide its

order dated 11.9.2023, with the following directions :-

“ 20] So far as the decision relied upon by the counsel for the petitioner in the case of United Bank of India and Ors. (Supra) is concerned, it was the case where the circular dated 22.08.2008 issued by the Reserve Bank of India is referred to, whereas in the present case the reference is of Clause 22.5 of the UCO Bank Manual of Instructions of January, 1998 is relevant which has also been noted in the decree itself. Thus, in the absence of any challenge to the decree, the aforesaid circular (sic) would be applicable and the interest has to be determined on the basis of the said circular(sic) only.”

4. Counsel for the petitioner has submitted that after the matter was remanded back to the executing Court, vide order dated 3.2.2024, passed by the Executing Court it has been held by the executing Court that the respondent is entitled to receive 11% interest instead of 10% which he was granted earlier, and the Court has also granted quarterly compounded interest instead of simple interest. It is further submitted that the decree dated 30.9.2015 does not mention any specific clause of manual and only directs that the interest be paid as per applicable law, and in such circumstances, the order deserves to be reviewed.

5. In support of his submission, learned counsel for the petitioner has also relied upon various judgments by the Apex Court as well as various High Courts in **Municipal Council Thanesar Vs. Virendra Kumar and others reported as (2020) 15 SCC 364, Centrient Pharmaceuticals India Pvt. Ltd Vs. Hindustan Antibiotics Ltd reported by the Mumbai High Court in W.P.No.5801/2023 (Civil Appellate), State of Haryana Vs. S.L.Arora and company reported as (2010) 3 SCC 690, M/s Pt. Munshi Ram and Associates Vs. DDA by the Delhi High Court in Ex.P. No.194/2006, Ramashish Prasad Gupta Vs. Vikramaditya Prasad**

Gupta by the Patna High Court reported as (2016) 3 PLJR 755, India Corporation Limited VS. G.S. Jain and Associates by the Delhi High Court reported as 2012 SCC online Del 4700, Rajendra Singh Vs. Lt.Governor Andaman and Nicobar Islands and others reported as (2005) 13 SCC 289, Shivdev Singh and others Vs. State of Punjab and others reported as AIR 1963 SC 1909 and in Madhya Pradesh Financial Corporation Finance House Vs. Avalanche Multi Trading Pvt. Ltd passed by the Division Bench of the Madhya High Court (Bench at Indore) in R.P.No.1736/2019 order dated 4.11.2022.

6. Prayer is vehemently opposed by the learned counsel for the respondent, and it is submitted that even in the decree passed by the executing Court, specific reference is given to the manual of Reserve Bank of India, and additionally it is also directed that the interest may be paid as per applicable law. It is also submitted that in other identical matters the Bank has already paid interest compounded quarterly, and thus, it does not lie with the Bank to say that they are not liable to pay compound interest.

7. Counsel for the respondent has also submitted that it was not a money suit which would require the Court to pay the simple interest, but it was a suit for claiming the fixed deposits which were already lying with the Bank, and on which interest has to be paid as per decree.

8. In support of his submissions, learned counsel for the respondent has also relied upon various judgments by the Apex Court as well as various High Courts in the case of **State of Madhya**

Pradesh Vs. Mangilal Sharma reported as AIR 1998 SCC 743, S.J,Ebenezer Vs. Velayudhan and others reported as AIR 1998 SCC 746, Chairman Kisan Sahkari Chini Mills Vs. Post Master General Bareilly and others reported as (2022) 14 SCC 92, Dharmesh S.Jain and another Vs. Urban Infrastructure Real Estate Fund reported as (2022) 4 SCC 653,Smt. Meera Bhanja Vs. Nirmala Kumari Choudhary reported as AIR 1995 SCC 455, Ashok Kumar Vs. Union Territory Chandigarh reported as AIR 1995 SCC 461 Pishora Singh V. Bank of Punjab and others reported as AIR 2017 SCC 2696, Nawab Humayun Begum Vs. Nawab Singh Mohammad Khan and another reported as AIR (30) 1943 Privy Council 94, Suleman Haji Ahmad Umer Vs. Haji Abdulla Haji Rahimtulla reported as AIR 1940 Privy Council 132, Nripendra Nath Chatterji Vs. Arun Chandra reported as AIR 1940 Patna 129 , Daw Hint VS. Anamalal Chettyar reported as AIR 1938 Rangoon 335, Hindustan Petroleum corporation limited Vs. Dilbahar Singh reported as (2014) 9 SCC 78.

9. Heard learned counsel for the parties and perused the record.
10. From the record, this Court finds that so far as the order under review, dated 11.9.2023 is concerned, this Court made the following observations:

“17] It is also found that so far as the civil suit is concerned, the petitioner/bank has not raised any dispute whether the FDRs were received by it for payment. In such circumstances, the provision of Clause 22.5 would be applicable. Clause 22.5 provides that period of interest applicable to the renewed deposit would be the same, which is prevailing on the date of maturity. However, it is not known as to what was the rate applicable on the date of maturity.

18] In such circumstances, the matter is remanded back to the Executing Court with a direction to the petitioner to inform the Court about the rate of interest, which was applicable on the date of maturity and the Executing Court is directed pass the appropriate order applying such rate of interest, which was applicable on the date maturity instead of 10% which was the rate of FDRs.

19] So far as the decision cited by the counsel for the respondent, the same is not applicable on the facts and circumstances of the present case, and the courts would be bound by the decree passed by the trial court.

20] So far as the decision relied upon by the counsel for the petitioner in the case of **United Bank of India and Ors. (Supra) is concerned, it was the case where the circular dated 22.08.2008 issued by the Reserve Bank of India is referred to, whereas in the present case the reference is of Clause 22.5 of the UCO Bank Manual of Instructions of January, 1998 is relevant which has also been noted in the decree itself. Thus, in the absence of any challenge to the decree, the aforesaid circular(sic) would be applicable and the interest has to be determined on the basis of the said circular(sic) only.”**

11. So far as the decree dated 22.1.2016 is concerned, which is passed in CS.No.31-A/2014, apparently the executing Court has already directed that the interest has to be charged on the fixed deposits as per **the guidelines issued by the Reserve Bank of India in their Manual Chapter -IV, Rule 22(1) to (5)** or at the interest as applicable under law. The relevant para of the decree read as under:-

“अ. वादी क्र. 1 लगायत 2 एफ.डी.आर. क्रमांक 789216, बचत खाता क्र. 3756, चालू खाता क्र. पी/331, आर.एस.सेठ दयाल जी घीसालाल जी मोदी एण्ड जी.एन.एस. मोदी परिवार के नाम की एफ.डी.आर. क्र. 789219, 789092, बचत खाता क्रमांक 5688, चालू खाता नम्बर पी-353, का संचालन व राशि निकासी का नंदकिशोर मोदी स्वामी होकर वादी क्रमांक 3 व अन्य प्रतिवादीगण की सहमति व अनुमति के बिना नंदकिशोर कर्ता की हैसियत से संचालित करने का तथा एफ.

डी.आर. की राशियां प्राप्त करने का अधिकारी है।
ब. वादी क्रं. 1 लगायत 2 के एफ.डी.आर. पर परिपक्वता
दिनांक से प्रतिवादी बैंक से भारतीय रिजर्व बैंक के मेन्युअल
अध्याय 4 के नियम 22(1) से (5) के अनुसार/विधि अनुसार
ब्याज जो पात्रता है, वह पाने का अधिकारी है।”

(emphasis supplied)

12. A perusal of the decree clearly reveals that although it does not refer to the interest being paid quarterly, but, in accordance with the Reserve Bank of India manual/as applicable under law, in such circumstances, if the guidelines provide for quarterly interest, the petitioner would be required to pay interest quarterly, and if it is simple interest, then the interest should be paid in the same manner as per the guidelines, and that is why this Court, in its order under review has not reflected as to how the interest rate is to be calculated and rightly so, because it was not the intention of this Court to pass such an order regarding the interest to be charged on the fixed deposits.

13. In such circumstances, this Court does not find any error apparent on the face of record requiring any interference in the order dated 3.2.2024, passed by the Executing Court (29th District Magistrate, District Indore) in E.X.No.49/2017, and if the petitioner is aggrieved by the order of the Executing court dated 3.2.2024, it can be challenged the same separately, and not in the garb of this review petition.

14. In such circumstances, the petition, sans merits, is hereby dismissed.

15. Lastly, a word of advice to the learned counsel for the parties, reflecting upon the scores of judgments which have been cited by them. Never try to impress the court by burdening and wasting its valuable time by citing unnecessary judgments/case laws. The *cliché*, if you cannot convince the court, confuse it does not always work but only *irks* the court. Counsel are well advised to first stick to the basic facts and laws *germane* to the case, and if necessary, cite one or two judgments in support of their contentions, as there is no point in citing ten judgments to buttress only one point. Counsel must bear in mind that it is never the case that, '*he who cites more cases, wins the case*'.

16. With the aforesaid, **the review petition stands *dismissed and disposed of*.**

(SUBODH ABHYANKAR)
JUDGE

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