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Bombay High Court Reiterates: Borrowers Cannot Demand One-Time Settlement as a Matter of Right

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Introduction

In a recent decision with significant implications for banking and insolvency jurisprudence, the **Bombay High Court (Nagpur Bench)** in Ms. Archana Wani v. Indian Bank & Ors.[1] reaffirmed that a borrower or guarantor cannot claim the benefit of a One-Time Settlement (OTS) as a matter of right, nor can courts compel banks to disclose internal benchmarks or accept settlement proposals.

The Division Bench comprising observed that loan recovery and settlement decisions fall squarely within the commercial wisdom of banks, which deal with public money and are bound to act in the broader interest of financial discipline. The Court emphasized that judicial interference under Article 226 of the Constitution cannot be invoked to rewrite or alter contractual obligations, particularly when statutory remedies under the SARFAESI Act, 2002 and the Insolvency and Bankruptcy Code, 2016 are available.

This judgment reinforces a growing judicial consensus that OTS schemes are ex gratia concessions, not enforceable rights, and highlights the courts' reluctance to intervene in commercial decisions involving public funds unless clear arbitrariness or violation of statutory norms is demonstrated.

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Background of the Case

The petitioner, **Ms. Archana Wani**, a director and shareholder of **N. Kumar Housing and Infrastructure Pvt. Ltd.**, had stood as guarantor and mortgagor for a **term loan of ?62 crore** sanctioned by the erstwhile Allahabad Bank (now Indian Bank) to **M/s Poonam Resorts Ltd.** in 2011 for the development of a resort and club project in Nagpur.

Following repeated defaults by the principal borrower, the loan account was classified as a **Non-Performing Asset (NPA)** on **31 March 2017**. The bank thereafter initiated recovery proceedings under the **Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act)** and also filed an application under **Section 7 of the Insolvency and Bankruptcy Code (IBC), 2016** before the National Company Law Tribunal (NCLT), Mumbai.

In the meantime, the petitioner submitted several proposals for **One-Time Settlement (OTS)**, seeking to settle the dues. However, the bank rejected these proposals, stating that they did not meet the requisite **"benchmark criteria."** The petitioner contended that the bank acted **arbitrarily and without transparency**, as the specific benchmark parameters were neither disclosed nor explained.

Aggrieved, the petitioner approached the **Bombay High Court under Article 226**, seeking directions to the Reserve Bank of India (RBI) to appoint an independent officer to audit the bank's actions, to compel the bank to disclose its benchmark standards, and to accept the OTS proposal in the interest of fairness. The petitioner also challenged the actions of the **Interim Resolution Professional (IRP)** appointed under the IBC, alleging procedural irregularities and violation of due process.

Issues Before the Court

The Court identified the following central issues:

1. Whether a borrower or guarantor can compel a bank to disclose its internal **OTS benchmark criteria** or to accept an OTS proposal.
2. Whether the Court, in exercise of its writ jurisdiction under **Article 226**, can direct a bank to consider or settle a loan through OTS despite rejection by the bank.

3. Whether the actions of the bank and the interim resolution professional (IRP) under SARFAESI and IBC were arbitrary or unlawful.

Court's Analysis and Findings

The Bombay High Court conducted a detailed examination of the contractual framework between the parties and the statutory remedies available under the SARFAESI Act, 2002 and the Insolvency and Bankruptcy Code (IBC), 2016. The Bench observed that the petitioner's plea essentially sought to compel the bank to accept a One-Time Settlement (OTS) proposal and disclose its internal benchmark criteria, which falls outside the scope of judicial review under Article 226 of the Constitution.

The Court reiterated that a bank's decision to accept or reject an OTS proposal is a purely commercial decision based on internal policies, financial prudence, and risk assessment. Merely submitting an OTS proposal does not confer any enforceable right on the borrower or guarantor. Further, there is no statutory obligation requiring banks to disclose their benchmark parameters, and hence, non-disclosure cannot be construed as arbitrary or unfair.

The Bench emphasized that banks deal with public funds, and compelling them to settle dues on terms dictated by borrowers would undermine financial discipline and public interest. The Court observed that the doctrine of legitimate expectation cannot apply in the absence of a specific OTS policy or assurance from the bank.

In support of its conclusions, the Court relied on key Supreme Court precedents:

- **Bijnor Urban Cooperative Bank Ltd. v. Meenal Agrawal[2]**, where it was held that no borrower can demand OTS benefits as a matter of right, and courts cannot issue a writ of mandamus directing banks to grant such relief.
- **State Bank of India v. Arvind Electronics Pvt. Ltd.[3]**, which held that rescheduling loan terms or compelling settlement amounts to **rewriting a contract**, something impermissible in writ jurisdiction.
- **Sardar Associates v. Punjab & Sind Bank[4]**, distinguished by the Court as it involved a specific RBI-backed OTS policy, unlike in the present case.

The Bench concluded that since recovery proceedings were already pending before the Debts Recovery Tribunal (DRT) and the NCLT, interference under Article 226 was unwarranted. The petition was therefore dismissed, though the interim stay on recovery was continued for six weeks to enable the petitioner to explore alternate remedies.

Conclusion and Directions

The Court held that:

- **No borrower or guarantor has a vested right to claim OTS benefits**, nor can the Court compel a bank to disclose its internal assessment criteria or benchmarks.
- Acceptance or rejection of an OTS proposal is a **matter of commercial judgment** and cannot be judicially enforced.
- Since the loan default and recovery proceedings were governed by special statutes **SARFAESI and IBC** interference under Article 226 was not justified.

Accordingly, the **writ petition was dismissed**, with the Court refusing to issue any directions against the bank or the Reserve Bank of India. However, the interim stay on recovery was continued for six weeks to allow the petitioner time to pursue alternate remedies.

Author's View

The Bombay High Court's ruling in Ms. Archana Wani v. Indian Bank & Ors. reinforces a consistent judicial position that One-Time Settlement (OTS) schemes are discretionary measures, not enforceable rights. By declining to interfere in the bank's commercial decision-making, the Court has reaffirmed that public funds must be managed with prudence and that contractual obligations cannot be rewritten under the guise of fairness.

The judgment reflects the Court's balanced approach between judicial restraint and financial accountability, recognizing that banks operate within regulatory and economic frameworks that prioritize recovery efficiency and fiscal discipline. It highlights that borrowers cannot rely on the doctrine of legitimate expectation in the absence of a clearly defined OTS policy or a binding promise.

In essence, the Court has reiterated a crucial principle settlement is a matter of negotiation, not entitlement. The verdict serves as a reminder to borrowers and guarantors that relief through OTS must arise from compliance with policy parameters and

genuine negotiation with lenders, not judicial intervention.

For more details, write to us at: contact@indialaw.in

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[1] Writ Petition No. 3766 of 2023

[2] (2023) 2 SCC 805

[3] (2023) 1 SCC 540

[4] (2009) 8 SCC 257

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