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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 04.02.2026*  
*Judgment pronounced on: 10.03.2026*  
*Judgment uploaded on: 10.03.2026*

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RFA(COMM) 446/2024

STAR PROPWELL PVT LTD

.....Appellant

Through: Mr. Rishu Kant Sharma, Mr.  
Aryan Jha, Advs.

versus

STATE BANK OF INDIA

.....Respondent

Through: Mr. Jitendra Kumar, Mr. Uttam  
Kumar, Advs.

**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T****ANIL KSHETARPAL, J.**

1. The present Appeal, filed by the Appellant [Plaintiff before the Commercial Court], assails the correctness of judgment and decree dated 13.08.2024 [hereinafter referred to as 'Impugned Order'] passed by learned Commercial Court in CS(COMM) No. 282/2020 whereby the Commercial Court dismissed the Plaintiff's application under Section 14 of the Limitation Act, 1963 [hereinafter referred to as 'Limitation Act'] and, consequently, dismissed the suit for recovery of Rs. 58,73,850/- as being barred by limitation.

2. The issue which arises for consideration in the present Appeal is whether the Commercial Court was justified in holding that the suit



was barred by limitation and in declining the benefit of Section 14 of the Limitation Act to the Plaintiff?

### **FACTUAL MATRIX**

3. In order to appreciate the controversy involved in the present Appeal, it would be apposite to briefly notice the relevant facts. For the sake of convenience and clarity, the parties shall be referred to as they were arrayed before the learned Commercial Court.

4. The Plaintiff is a private limited company engaged, *inter alia*, in real estate development. It was allotted leasehold rights in respect of a parcel of land admeasuring 6995.16 square metres situated at Plot No. 1C, Sector 126, Noida, Uttar Pradesh [hereinafter referred to as the 'suit property'] by the New Okhla Industrial Development Authority (NOIDA) for a period of 90 years. The allotment was formalised through a registered lease deed dated 18.06.2007.

5. With the objective of constructing an Information Technology Park on the suit property, the Plaintiff approached State Bank of Patiala (which subsequently merged with State Bank of India, the present Defendant) for sanction of a term loan facility to the extent of Rs. 40 crores. After appraisal and processing of the proposal, the loan was sanctioned by the Bank on 26.11.2015. As per the sanction terms, the validity of the sanction was stipulated up to 13.05.2016.

6. Pursuant to the sanction, the Plaintiff deposited a sum of Rs. 30,91,500/- with the Defendant towards upfront charges and other incidental fees as required under the sanction conditions. It is the case



of the Plaintiff that the said amount was deposited in anticipation of timely disbursement of the sanctioned facility.

7. Thereafter, on 04.02.2016, the Plaintiff addressed a communication to the Defendant seeking reduction in the rate of interest and concession in the upfront fee component. The request was considered by the Defendant *and*, vide communication dated 04.03.2016, certain modifications were accepted. This correspondence is relevant as it indicates that the contractual relationship between the parties remained subsisting and under active consideration during the validity period of the sanction.

8. In furtherance of the loan transaction, and in order to comply with regulatory and contractual requirements, steps were taken for obtaining a No Objection Certificate (NOC) from NOIDA. A communication dated 02.06.2016 was addressed in that regard, and the NOC was eventually granted on 29.06.2016. Significantly, these steps were undertaken even after 13.05.2016, the date up to which the original sanction was stated to be valid.

9. Meanwhile, certain disputes arose between the parties concerning disbursement of the sanctioned loan amount. The Plaintiff approached this Court by filing W.P.(C) 2507/2017 under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the Defendant to disburse the sanctioned loan facility. The said writ petition was disposed of by this Court on 20.03.2017 with a direction to the Defendant to consider the Plaintiff's claim in accordance with law. Liberty was granted to the Plaintiff to avail of



appropriate legal remedies in the event of an adverse decision by the Bank.

10. During the interregnum, *vide* communication dated 10.01.2017, the Defendant called upon the Plaintiff to complete certain formalities. Subsequently, on 31.03.2017, the Plaintiff was informed that the loan sanction had lapsed on 13.05.2016 and that for revalidation of the sanction, upfront fee and revalidation charges were required to be deposited, which, according to the Defendant, had not been paid.

11. Aggrieved by the stand taken by the Defendant, the Plaintiff instituted W.P.(C) 3570/2017 before this Court seeking a direction to the Defendant to disburse the loan amount in terms of the sanction. During the pendency of the said writ petition, the Plaintiff filed an application seeking amendment of the writ petition so as to incorporate, in the alternative, a prayer for refund of the amount of Rs. 30,91,500/- deposited by it.

12. The amendment application was allowed by this Court on 30.01.2018, thereby permitting the Plaintiff to seek, in the alternative, refund of the amount deposited with the Bank. The writ petition, as amended, remained pending until 09.10.2019, when the Plaintiff sought leave to withdraw the same with liberty to pursue appropriate remedies in accordance with law. The writ petition was accordingly dismissed as withdrawn with liberty as prayed for.

13. Thereafter, on 20.02.2020, the Plaintiff instituted the suit for recovery before the Commercial Court seeking recovery of Rs. 58,73,850/- (which included the principal amount deposited along



with interest and other claims). Along with the suit, the Plaintiff filed an application under Section 14 of the Limitation Act seeking exclusion of the time spent in prosecuting W.P.(C) 3570/2017, particularly from the date of amendment, i.e., 30.01.2018, till the date of withdrawal on 09.10.2019.

14. The Defendant filed its written statement contesting the suit on merits and also filed a reply opposing the application under Section 14 of the Limitation Act. Upon completion of pleadings, the learned Commercial Court, *vide* order dated 18.02.2021, framed the following issues:

*“6. The court vide order dated 18.02.2021 framed following issues:-*

*1. Whether the upfront fees charged by the defendant is refundable as claimed by the plaintiff or non-refundable as claimed by the defendant? OPP & OPD*

*2. Whether the plaintiff is entitled for the suit amount, if so to what extent? OPP*

*3. Whether the plaintiff is entitled for interest, if so at what rate and for which period? OPP*

*4. Relief, if any.”*

15. The parties were thereafter afforded opportunity to lead evidence. It is not in dispute that evidence was led by both sides on the issues so framed. However, before adjudicating upon the merits of the substantive issues, the Commercial Court proceeded to decide the application under Section 14 of the Limitation Act. By the Impugned Order dated 13.08.2024, the Commercial Court dismissed the application and, as a consequence, dismissed the suit as being barred by limitation. The said dismissal was principally founded on three conclusions recorded by the Commercial Court, namely:



- i. that the cause of action for filing the suit arose upon expiry of the validity of the sanction on 13.05.2016 and, therefore, the suit ought to have been filed within three years therefrom;
  - ii. that the Plaintiff had failed to establish due diligence and good faith in prosecuting the writ proceedings and, therefore, was not entitled to benefit under Section 14 of the Limitation Act; and
  - iii. that the reliefs claimed in the writ petition and those claimed in the civil suit were materially different and did not relate to the same matter in issue.
16. It is the correctness of these findings, both factual and legal, that falls for examination in the present appeal.

### **CONTENTIONS OF THE PARTIES**

#### 17. Contentions of the Appellant-

17.1. Misinterpretation of Section 14 of the Limitation Act- It was submitted that Section 14 of the Limitation Act is a beneficial provision intended to advance the cause of substantial justice by excluding the time spent in prosecuting with due diligence and in good faith another civil proceeding which fails on account of defect of jurisdiction or other cause of like nature. Reliance was placed upon the decision of the Hon'ble Supreme Court in ***Consolidated Engineering Enterprises v. Principal Secretary, Irrigation***



*Department*<sup>1</sup>, wherein the essential ingredients for invoking Section 14 have been authoritatively laid down.

17.2. It was submitted that both writ petitions filed by the Appellant arose out of the same transaction, namely, the sanction of the term loan dated 26.11.2015 and the Respondent's subsequent refusal to disburse the same. It was contended that the second writ petition was amended to incorporate, in the alternative, a specific prayer seeking refund of the upfront fees deposited with the Respondent. Therefore, according to the Appellant, the matter in issue in the writ proceedings and in the present suit was substantially identical.

17.3. It was further argued that the Commercial Court erred in holding that the writ proceedings did not relate to recovery of money. Attention was invited to paragraph 57 of the Impugned Judgment, wherein the Trial Court acknowledged that the amended writ petition contained a prayer for refund of the upfront fees, yet proceeded to hold that the proceedings were not relatable to the relief claimed in the suit. According to the Appellant, this reasoning is internally inconsistent and contrary to the record.

17.4. It was contended that the writ petition was ultimately withdrawn with liberty to avail appropriate remedies in accordance with law, which itself demonstrates that the Appellant had *been bona fide* pursuing a remedy before a forum which was not suited to grant monetary relief. It was submitted that the Appellant acted with due diligence and good faith throughout, and therefore, the entire period

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<sup>1</sup> (2008) 7 SCC 169



during which the writ petition remained pending ought to have been excluded while computing limitation.

17.5. Erroneous Calculation of Limitation- It was submitted that the Commercial Court has erred in computing the limitation period from 13.05.2016, i.e., the date of expiry of the validity of the sanction letter, without appreciating the subsequent conduct of the Respondent and the pendency of the writ proceedings. It was contended that the Commercial Court failed to properly account for the suspension of limitation during the pendency of the writ petition and thereby arrived at an incorrect conclusion that the suit was time-barred.

17.6. It was further argued that even if 13.05.2016 is treated as the starting point, limitation would have run only until the amendment of the second writ petition to include the recovery claim, after which the period during which the writ petition remained pending ought to have been excluded under Section 14. Upon such exclusion, the suit filed on 22.02.2020 would fall within the prescribed period.

17.7. Alternatively, it was submitted that the cause of action could not be said to have crystallised on 13.05.2016 in view of the Respondent's continued engagement with the Appellant, including communications post-dating the alleged expiry of the sanction. It is contended that the Respondent's conduct created a legitimate impression that the loan process remained under active consideration, and therefore, the starting point of limitation adopted by the Trial Court is legally unsustainable.



17.8. Forfeiture of Upfront Fees (Without Prejudice)- It was contended that the Respondent could not have forfeited the upfront fees without establishing any actual loss. Reliance was placed upon the judgment of the Hon'ble Supreme Court in *Kailash Nath Associates v. Delhi Development Authority*<sup>2</sup>, wherein it was held that forfeiture of earnest money is impermissible in the absence of proof of loss under Section 74 of the Indian Contract Act, 1872.

17.9. It was submitted that in the present case, the Respondent has neither pleaded nor proved any actual loss arising from the alleged lapse of the sanction. Consequently, retention of the amount of Rs. 30,91,500/- is stated to be arbitrary and contrary to settled principles of contract law.

17.10. Obligation of Fairness on the Respondent- It was further submitted that the Respondent, being a public sector bank and an instrumentality of the State within the meaning of Article 12 of the Constitution of India, is obligated to act fairly, transparently and reasonably. It was contended that the Respondent's conduct in continuing engagement while allegedly treating the sanction as lapsed, and thereafter refusing refund of the upfront fees, falls short of the standards expected of a State instrumentality.

## 18. Contentions of the Respondent

18.1. *Per contra*, learned counsel for the Respondent submitted that the Impugned Judgment passed by the Commercial Court is well-reasoned and does not call for interference. It was contended that the

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<sup>2</sup> (2015) 4 SCC 136



suit was rightly dismissed as being barred by limitation and that the Appellant has failed to make out any ground for exclusion of time under the Limitation Act.

18.2. Applicability of Section 14 of the Limitation Act- It was submitted that the benefit of Section 14 of the Limitation Act is not available to the Appellant in the facts of the present case. It was contended that Section 14 applies only where the earlier proceeding has failed on account of defect of jurisdiction or other cause of like nature. According to the Respondent, the writ petitions filed by the Appellant were not dismissed for want of jurisdiction but were voluntarily withdrawn, and therefore the essential precondition for invoking Section 14 is absent.

18.3. It was further contended that the relief sought in the writ petitions was primarily for issuance of directions for disbursement of the sanctioned loan, whereas the present suit is a commercial action for recovery of money. According to the Respondent, the nature and scope of the two proceedings are materially distinct, and therefore the requirement of identity of “matter in issue” under Section 14 is not satisfied

18.4. It was submitted that the mere fact that the second writ petition was amended to include an alternative prayer for refund of upfront fees does not alter the character of the proceedings. It was argued that the dominant relief in the writ proceedings was enforcement of the sanction, whereas the present suit is founded upon alleged entitlement



to refund, and hence the two proceedings cannot be treated as substantially the same for the purposes of limitation.

18.5. On the issue of limitation, it was submitted that the cause of action accrued on 13.05.2016, being the date on which the validity period of the sanction letter expired. According to the Respondent, the sanction was expressly time-bound and conditional, and upon expiry of the stipulated period without fulfilment of the required conditions, the sanction automatically lapsed. It was contended that the right to sue, if any, first accrued on that date.

18.6. It was argued that subsequent correspondence or engagement between the parties does not extend or postpone limitation in the absence of a clear and unequivocal acknowledgment of liability within the meaning of Section 18 of the Limitation Act. The Respondent submitted that no such acknowledgment exists on record, and therefore the limitation period could not have been extended on the basis of alleged continued discussions.

18.7. It was further submitted that the Appellant cannot rely upon its own decision to pursue a writ remedy to suspend limitation. It was contended that proceedings under Article 226 of the Constitution are discretionary in nature and that the High Court is competent to entertain monetary claims in appropriate cases. Therefore, according to the Respondent, the writ petitions cannot be characterized as proceedings before a forum lacking jurisdiction.

18.8. Forfeiture of Upfront Fees- It was contended that the upfront fees were paid in terms of the sanction letter and were governed



strictly by the contractual conditions agreed between the parties. According to the Respondent, the sanction letter clearly stipulated the consequences of non-fulfilment of conditions within the prescribed period, and the forfeiture of upfront fees was in accordance with such terms.

18.9. It was submitted that the judgment relied upon by the Appellant in *Kailash Nath Associates* (supra) is distinguishable on facts as the present case concerns enforcement of contractual stipulations between commercial entities, and that the forfeiture in question arises from agreed contractual terms rather than imposition of a penalty independent of contract.

18.10. Obligation of Fairness- It was further submitted that although the Respondent is a public sector bank, the transaction in question was a commercial transaction governed by contractual terms. It was argued that in matters arising out of commercial contracts, the parties are bound by the agreed conditions, and no arbitrariness can be inferred merely because one of the parties is an instrumentality of the State

### **ANALYSIS & FINDINGS**

19. This Court has considered the submissions advanced on behalf of the parties at length and, with their able assistance, perused the material on record.

20. The primary question that arises for consideration is whether the Commercial Court was justified in dismissing the application



preferred by the Plaintiff under Section 14 of the Limitation Act and consequently holding the suit to be barred by limitation.

21. At the outset, it must be noted that the Commercial Court proceeded on the premise that the cause of action to seek refund of the upfront fees arose on 13.05.2016, being the date on which the sanction letter was to lapse by efflux of time. In the considered opinion of this Court, such a conclusion is legally unsustainable and contrary to the material placed on record.

22. The record reveals that even after 13.05.2016, the Respondent-Bank continued to engage with the Plaintiff in relation to the sanctioned loan. On 02.06.2016, the Bank itself applied for issuance of a NOC from the Noida Authority. Subsequently, on 10.01.2017, the State Bank of India called upon the Plaintiff to complete certain formalities. These communications are wholly inconsistent with the theory that the sanction stood conclusively lapsed on 13.05.2016.

23. It was only on 31.03.2017, in compliance with the directions issued by the High Court in earlier proceedings, that the Plaintiff was formally informed that the sanctioned loan had lapsed and that no request for revalidation had been received. Therefore, the cause of action to seek refund cannot be artificially truncated to 13.05.2016 when the conduct of the Respondent itself demonstrated that the loan proposal was still under active consideration. At the very least, the right to seek refund can be said to have crystallised only when the Respondent unequivocally declined to proceed further, i.e., on 31.03.2017.



24. The Commercial Court, in ignoring these subsequent events, has committed a manifest error in computation of limitation.

25. The next issue pertains to the applicability of Section 14 of the Limitation Act. The Commercial Court has held that the Plaintiff failed to demonstrate due diligence and good faith in prosecuting the writ proceedings. This finding, in the view of this Court, is not borne out from the record.

26. The Plaintiff initially instituted W.P.(C) 2507/2017, which came to be disposed of on 20.03.2017. Thereafter, W.P.(C) 3570/2017 was filed. During the pendency of the said writ petition, the Plaintiff moved an application seeking amendment so as to incorporate, in the alternative, a prayer for refund of the sum of Rs. 30,91,500/-. The amendment application was allowed on 30.01.2018. Ultimately, the writ petition was permitted to be withdrawn on 09.10.2019 with liberty to avail appropriate remedies in accordance with law.

27. Section 14 is a beneficial provision intended to advance substantial justice where a litigant has, in good faith and with due diligence, pursued a remedy before a forum which is ultimately found to be incapable of granting effective relief. A litigant cannot be expected to possess technical legal acumen or to perfectly assess the jurisdictional contours of a particular forum. Parties act on legal advice, and unless *mala fides* or deliberate inaction are demonstrated, the benefit of Section 14 ought not to be denied on hyper-technical grounds.



28. In the present case, the sequence of events unmistakably shows that the Plaintiff was continuously prosecuting remedies before the High Court and took steps to amend the writ petition to include the relief of refund. The writ petition remained pending until 09.10.2019. There is no material to indicate absence of *bona fides* or lack of diligence.

29. The finding recorded by the Commercial Court in paragraph 59 of the Impugned Judgment, to the effect that the Plaintiff failed to establish due diligence or good faith, is therefore unsustainable and is accordingly set aside.

30. The Commercial Court has further observed that the relief claimed in the suit was distinct from the relief sought in the writ petition and, therefore, Section 14 was inapplicable. This reasoning also cannot be sustained.

31. It is an admitted position that pursuant to the order dated 30.01.2018, the Plaintiff amended W.P.(C) 3570/2017 to specifically incorporate an alternative prayer seeking refund of the upfront fees. Thus, the relief of refund, which constitutes the substantive relief in the present suit, was indeed one of the reliefs claimed in the writ proceedings.

32. Section 14(2) of the Limitation Act contemplates exclusion of time where a litigant has been prosecuting another civil proceeding founded upon the same cause of action and for the same relief. Once the writ petition stood amended to include the prayer for refund, the identity of relief stood established. The Commercial Court erred in



overlooking this material aspect and in holding that the reliefs were different in character.

33. In view of the foregoing discussion, this Court holds that the Plaintiff is entitled to exclusion of the period during which the amended writ petition, containing the alternate prayer for refund, remained pending. The amendment having been allowed on 30.01.2018, and the writ petition having been withdrawn on 09.10.2019, the Plaintiff is entitled to exclusion of this period, which is approximately 20 months.

34. In the factual matrix of the present case, the accrual of the enforceable cause of action must be taken as 31.03.2017, when the Respondent unequivocally communicated that the sanctioned loan had lapsed. The suit was subsequently filed on 20.02.2020. Therefore, even without giving effect to the exclusion of the period spent in the writ proceedings, the suit was filed within the prescribed period of limitation.

35. The Commercial Court, having dismissed the suit solely on the ground of limitation, refrained from adjudicating the remaining issues, despite the fact that evidence had already been led by the parties. Under Order XIV Rule 2 of the Code of Civil Procedure, 1908 ['CPC'], particularly in commercial disputes where expeditious adjudication is the legislative mandate, the Trial Court is expected to determine all issues arising for consideration unless the matter can be disposed of purely on a preliminary issue of law as provided under Order XIV Rule 2(2) of the CPC, which was not applicable in the



2026:DHC:1938-DB



present case because all the issues were framed and the parties had already led their evidence on all the issues.

36. In the present case, once the finding on limitation is found to be unsustainable, the Impugned Judgment cannot be allowed to stand.

37. Accordingly, the Impugned Judgment passed by the Commercial Court is set aside. The matter is remitted to the Commercial Court for adjudication of the remaining issues on merits, on the basis of the evidence already led by the parties and in accordance with law.

38. The parties, through their learned counsel, are directed to appear before the Commercial Court on 25.03.2026.

39. The Appeal is allowed in the aforesaid terms and stands disposed of.

**ANIL KSHETARPAL, J.**

**AMIT MAHAJAN, J.**

**MARCH 10, 2026**

*s.godara/pal*