

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

% *Order delivered on: July 30, 2013*

+ **CM(M) No.760/2013**

MRS. RAJESHWARI VIDHYARTHI Petitioner
Through Mr.Madhu Mukul Tripathi, Adv.

versus

VIJAYA BANK Respondent
Through None.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J. (Oral)

CM No.11623/2013 & CM No.11624/2013

Exemption allowed, subject to all just exceptions.

The applications are disposed of.

CM(M) No.760/2013

1. The petitioner has filed the present petition under Article 227 of the Constitution of India read with Section 151 CPC for setting aside the impugned order dated 9th April, 2013 and 3rd January, 2013.

2. Brief facts of the case are that the petitioner filed a suit for permanent injunction against the respondent. She stated in the suit that she is the resident of property bearing No.75, South Anarkali, Khureji Khas, Delhi-51. She is the proprietor of M/s.Russo Foods India who is engaged in export of processed food like frozen meat and processed food, cereals, vegetables, fruits, grains etc. to worldwide and operates from the address given above.

3. The officials of the respondent bank approached the petitioner for granting export finance to her in the form of Packing Credit Limit, Export Bill Discounting and Letter of Credit Discounting. On 19th March, 2005, respondent bank sanctioned Packing Credit Limit for amount of Rs.15 lac. On 3rd January, 2006, the bank sanctioned the facilities up to Rs.75 lac. It was further stated in the suit that the petitioner on the asking of the respondent bank handed over the title deeds of her three properties, including the suit property to the respondent bank. It was assured by the respondent bank that no mortgage will be created. It was further averred that the respondent bank created equitable mortgage in respect of three properties of petitioner. It was also averred that the petitioner signed a lot of documents for the purpose of sanctioning the limit to Rs.75 lacs but the signatures of the petitioner were forged at the time of sanctioning the export limit to Rs.1.45 crore.

4. It was stated that the respondent bank charged the premium of insurance cover from the petitioner. It was further stated that the respondent bank due to malafide intentions did not purchase the Letter of Credit of Rs.89600 US dollors and due to the delay in sanctioning of export finance, the petitioner suffered loss in her business. Despite the requests of petitioner, the respondent bank neither discounted the export bills in the account of petitioner nor was insurance claim filed before the ECGC India, because of which the petitioner suffered huge losses. It was also averred that through false representation and by creating false documents, the petitioner was made to deliver the title deeds of her properties to the respondent. According to the petitioner, the respondent bank has already sold her two properties and now intends to disposed of the suit property of

the petitioner for which the petitioner filed the suit for permanent injunction against the respondent bank. The petitioner also filed an application under Order XXXIX, Rules 1 and 2 read with Section 151 CPC along with the said suit. By order dated 3rd January, 2013 the trial court dismissed the said application of the petitioner. Being aggrieved by the said order, the petitioner filed an appeal, being MCA No.5/2013, under Order 43 read with Section 151 CPC. The said appeal has been dismissed by the impugned order dated 9th April, 2013.

5. Two courts below after examining the facts have decided the application for interim order against the petitioner. Unless the findings of the court below are perverted and against the law and facts, an order cannot be interfered with particularly in the petition under Article 227 of the Constitution of India. Thus, there is no merit in the petition. The same is dismissed.

(MANMOHAN SINGH)
JUDGE

JULY 30, 2013