

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

LETTERS PATENT APPEAL ST/18162/2009
IN
WRIT PETITION NO.935/2008

PURNA SAHAKARI SAKHAR KARKHANA LTD
VERSUS
SHRI SHANKAR SHETKARI SAHAKARI SAKHAR KARKAHANA LTD.
AND ANR

...
Advocate for Applicant : Mr.Bagal Suraj R.

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 5th February, 2015.

PER COURT :

1) The appellant is objecting to order dated 5th December, 2008 passed by learned Single Judge in Writ Petition No.935/2008.

2) The order under challenge, before the learned Single Judge, was passed by Civil Judge, Senior Division, Basmathnagar on 27.4.2007 below Exhibits-34 and 35 in Special Darkhast No.1/2005, recalling his earlier order dated 22nd September, 2006, directing attachment of sugar bags.

3) It was pointed out to learned Civil Judge, Senior Division, after initiation of proceedings under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Act, 2002 (for short, Securitization Act), that notice was issued to the judgment debtor. After issuance of notice under Section 13(2) of the Securitization Act, it was not proper on the part of Civil court to cause interference in the matter in view of the decision of this court in the matter of Marathwada Gramin Bank Vs. MSC Bank. It was also pointed out that Section 34 of the Secularization Act, 2002 imposes such restrictions.

4) Considering the legal submission, learned Civil Judge, Senior Division, re-called his earlier order and directed release of the attached sugar bags. We do not find any infirmity in the order passed by the civil court, which has been confirmed by the learned Single Judge of this court by order dated 5th December, 2008. Even otherwise, In view of passage of time, the challenge raised in the instant petition is rendered stale. Letter Patent Appeal is devoid of substance and stands dismissed. Pending

Civil Applications, if any, do not survive and stand disposed of.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/