

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 2484 OF 2015
WITH
CIVIL APPLICATION NO. 10359 OF 2015

Shrirampur Zilla Madhyawarti Sahakari
Doodh Vyavsayik Sangh Ltd.,
Babhleshwar, Tq. Rahata,
Dist. Ahmednagar, through it's
Legal Officer, Shri Vilas Damodhar Kote,
Age 50 years, Occup. stated above
R/o Babhaleshwar, Tq. Rahata,
Dist. Ahmednagar Petitioner

versus

Bagayat Peek Utpadak Vividh Karyakari
Seva Sahakari Society Ltd.,
Deolai-Pravara, Tq. Rahuri,
Dist. Ahmednagar, through it's Chairman Respondent

Mr. Shailendra S. Gangakhedkar, Advocate for petitioner
Mr. P. S. Dighe, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.
25TH AUGUST, 2015

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. Heard the parties finally, by consent.

2. Impugned order dated 07-04-2014 passed by Civil Judge, Senior Division, Kopergaon [Executing Court] on application Exhibit-33 in Regular Darkhast No.132 of 2011 reads as under;

" Heard. Perused the application and say, and the statement appended to the application. The Judgment debtor has not seriously disputed the calculation submitted by the decree holder. So, the decree holder may take further steps as regards to recovery of their sum of Rs.28,38,048.58 lacks which is due from the Judgment debtor, as per provisions of law.

*Sd/-
7.4.2014 "*

3. Learned counsel for the parties have taken me through various documents filed along with writ petition and the replies. Various contentions have also been advanced in respect of the same.

4. Perusal of Exhibit-33 in Regular Darkhast no. 132 of 2011 and Exhibit-36 i.e. say on Exhibit-33 and the impugned order which are annexed to petition at Exhibits H, J and K respectively shows that the order is a non speaking one and although it has been referred to that claim has not been seriously disputed, yet position is that impugned order does not advert to the contentions as appearing in Exhibit 36.

5. In view of above, I deem it appropriate that executing court to consider Exhibit-33 afresh by giving proper opportunity to the parties and by passing a speaking order thereon.

6. As such, writ petition is allowed. Impugned order dated 07-04-2014 on Exhibit-33 is set aside. Exhibit-33 is restored to its position as had been subsisting immediately before impugned order was passed. The executing court to consider Exhibit-33 afresh and

pass a speaking order. Said exercise be carried out as expeditiously as possible, preferably within a period of four weeks from the date of receipt of writ of this order. If attachment is subsisting, the same be not further proceeded with pursuant to the order passed by the executing court and shall be subject to orders of the executing court.

7. Rule made absolute in aforesaid terms. Observations made in this order while setting aside impugned order have efficacy to that extent only and no further acts shall influence other proceedings at all.

8. Civil Application No. 10359 of 2015 does not survive and stands disposed of as such.

SUNIL P. DESHMUKH, J.

pnd