

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3850 OF 2015

Dr. Ravi Shriram Bangadkar .. Petitioner
vs.
Bank of Baroda and anr. .. Respondents

Mr. Sameer K. Chaudankar for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 15 April, 2015.

P.C. :-

- 1] Not on board. Upon production, taken on board.
- 2] This petition challenges the order dated 6 December 2014, by which the City Civil Court has restored the respondent No.1's Summary Suit No. 4533 of 2008, which came to be dismissed for default on 15 January 2014.
- 3] The learned counsel for the petitioner has submitted that the Officer of the bank, who, on behalf of the bank applied for restoration was not competent to do so. Further, the learned counsel for the petitioner submitted that no sufficient cause has been shown as to why the authorized representative of the plaintiff-bank could not remain present in the Court on 15 January 2014.

4] Having heard the learned counsel for the petitioner, there is no reason to interfere with the impugned order. The records indicate that on 15 January 2014 when the matter was dismissed for default, the representative of the plaintiff-bank could not remain present because several staff members of the bank were on leave and he had to attend the bank duties. Further, the application for restoration states that on the said date the affidavit in lieu of evidence as well as the documents in support thereof were ready. In such circumstances, the impugned order, accepts the case of the respondent No.1 Bank that absence was not intentional, but rather the same was for reasons beyond the control of representative of the bank.

5] The impugned order further states and in my judgment correctly that there is no reason to question the competence of the Officer of the bank to apply for restoration. On basis of merely denial, the petitioner, cannot contend that the restoration application was not maintainable.

6] Ultimately, it has to be noted that the present suit is for recovery of public monies based upon the documents, which are alleged to have been executed by the petitioner. Although, this is not

a stage for adverting to the merits and de-merits of the case, nevertheless, this is not a case where it can be said that absence of representative of the bank on 15 January 2014 was intentional or that the same has not been appropriately explained.

7] Accordingly, there is no jurisdictional error in making of the impugned order. This petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

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