

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.12296 OF 2015

All India Manufacturers Organization

.. Petitioner

Versus

The Authorized Officer,

Life Insurance Corporation of India and others

.. Respondents

Mr. Jitendra Ranawat i/by Mr. Y. S. Singh, for the Petitioner.

Mr. Shrinivas Bhavé i/by Bhavé & Co., for the Respondent No.2.

CORAM : R.M. SAVANT, J.

DATE : 30th JUNE, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 14.11.2014 passed by the Estate Officer, by which order the application filed by the Petitioner questioning the jurisdiction of the Estate Officers on the ground that the Petitioner's case is covered by the judgment reported in (2014)4 SCC 657 in the matter of Dr. Suhas H. Pophale Vs. Oriental Insurance Company Limited and its Estate Officer came to be rejected. It is the case of the Petitioner that it falls in one of the exceptions carved out by the Apex Court in *Dr. Suhas H. Pophale's* case (*supra*). In so far as the reliance placed on the judgment in *Dr. Suhas H. Pophale's* case is concerned, it is required to be noted that the SLP filed by the Respondent No.1 Life Insurance Corporation of India against another

occupant one Vita Pvt. Ltd being SLP No.19293 of 2014 had come up before a three-Judge Bench of Apex Court on 15.12.2014 when the Apex Court passed the following order :-

“Notice on the application for condonation of delay as also on the Special Leave petition. Learned counsel, on caveat, accepts notices. Counter affidavit and rejoinder affidavit are not necessary for the purpose of disposal of the Special Leave Petition. Matter will be heard in usual course on a non-miscellaneous day.”

The said SLP thereafter came up before a two-Judge Bench of the Apex Court on 17.03.2015 on which day the Apex Court passed the following order :-

“In these Petitions, in fact the ratio decided by the two-Judge Bench of this Court in the case of Suhas H Pokhale Vs. Oriental Insurance Company Limited and its Estate Officer-2014(2) SCC 657, is contrary to the decision of the Constitution Bench rendered in the case of Ashoka Marketing vs. Punjab National Bank – 1990(4) SCC 406. Therefore, these matters need to be heard by a three-Judge Bench.

Hence, the Registry is directed to place the record of these matters before the Hon'ble Chief Justice of India for constituting a three-Judge Bench.

Interim order to continue, if any.

Liberty is given to the parties to mention for early hearing.”

The Apex Court has therefore referred the matter to a three-Judge Bench for the reasons mentioned in the said order dated 17.03.2015. The

Learned Counsel for the Petitioner sought to draw this Court's attention to the observations made by the Estate Officer whilst dealing with Dr. Suhah Pophale's case. In so far as the said observations are concerned, similar observations were made in the order passed in the case of one M/s. Cafe Hornby & Excel Stores, which order was the subject matter of Writ Petition No.1926 of 2015. The said order was an identical order as passed in the present case by the Estate Officer rejecting the application filed by the Petitioner therein i.e. M/s. Cafe Hornby & Excel Stores questioning the jurisdiction of the Estate Officer and continuance of the proceedings in view of the judgment in Dr. Suhas Pophale's case. This Court had set aside the order passed by the Estate Officer in view of the fact that the observations made in regard to Dr. Suhas Pophale's case were not in keeping with judicial propriety and discipline. However, in view of the order dated 17.03.2015 passed by the Apex Court which has been adverted to herein above, had not relegated the parties back to the Estate Officer for a de-novo consideration of the issue of jurisdiction, since the issue is pending before the three-Judge Bench of the Apex Court, this Court had disposed of the said Petition by keeping the issue of jurisdiction open for being considered at the time of the challenge that may be raised to the final order that may be passed in the proceedings. This Court had also permitted the Estate Officer to proceed with the eviction proceedings

in question by giving proper opportunity to the parties. This Court had also given liberty to the said Petitioner to move an appropriate application in the event the decision of the three-Judge Bench of the Apex Court becomes available prior to the decision in the eviction proceedings.

2. In the light of the order dated 22.04.2015 passed in the said Writ Petition No.1926 of 2015, wherein the identical observations made by the Estate Officer as made in the instant order have been set aside, it is not necessary to pass a specific order setting aside the said observations in the instant matter. It is hoped and trust that the observations made by this Court in the order dated 22.04.2015 passed in Writ Petition No.1926 of 2015 will be kept in mind by the Estate Officer whilst dealing with the proceedings that come before him. In the light of the above, there is no warrant to interdict with the order passed by the Estate Officer rejecting the application questioning his jurisdiction and seeking stay of the proceedings. By keeping the issue of jurisdiction open for being considered at the time of challenge that may be raised to the final order passed in the proceedings and by granting liberty to the Petitioner move an appropriate application in the event the decision of the three judge bench of the Apex Court becomes available prior to the decision in the eviction proceedings the above Petition is disposed of.

[R.M. SAVANT, J]