

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.476 OF 2011
WITH
CIVIL APPLICATION NO.339 OF 2011
IN
CIVIL REVISION APPLICATION NO.476 OF 2011

Punjab and Maharashtra Co-operative Bank Ltd., .. Applicant
(Orig. Defendant No.1)
V/s.
Ravindra V. Prabhu
& Another .. Respondents.
(Orig. Plaintiff)

Mr. Snehal Shah with Ms. Dipti Panda and Ms. Dharmika Patel, i/b. M/s.
Purnanand & Co., for the Applicant.
Mr R. M. Pethe, for Respondent Nos. 1 and 2.

CORAM: M.S.SONAK,J.

DATE : 27th MARCH, 2015.

PC:-

This Application challenges the order dated 17th September, 2008 made by the 3rd Jt. Civil Judge, Junior Division, Kolhapur dismissing Applicants' application under Order VII Rule 11 (d) of the CPC for rejection of the plaint, inter alia on the ground that the Civil Court did not have jurisdiction in the matter.

2 The learned Counsel for the Respondents makes a statement that subsequent to the making of the impugned order, the plaint has now been amended. The learned Counsel contends that in view of such

amendment, the Civil Court would have jurisdiction to entertain the suit.

3 Ms. Panda, learned Counsel appearing for the Petitioner submits that she is unaware as to whether the plaint has been amended or not but submits that in any case, the Civil Court will not have jurisdiction to entertain a suit of the present nature in view of the decision of the Division Bench of this Court in the case of ***State Bank of India v/s. Jigishaben B. Sanghavi, 2011 (2) Mh. L. J. 342.***

4 Ms. Panda, learned Counsel appearing for the Petitioner further points out that w.e.f. 15th January, 2013, the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has been amended and in terms of such amendments, definition of 'bank' as appearing in Section 2(c) of the said Act, now specifically includes a '*Multistate Co-operative Bank*'.

5 In the light of the aforesaid subsequent events, in my judgment, it would be appropriate if the impugned order dated 17th September, 2008 is set aside and the matter is remanded to the learned Civil Judge, Junior Division, Kolhapur for fresh consideration of the Applicant's application at Exh. 20. In case, Applicant desires to amend their application at Exh. 20 or to make a fresh consolidated application seeking rejection of plaint, they are at liberty to do so. Such amendment/filing of consolidated application to be carried out within a period of six weeks from today.

6 Parties to appear before the learned Civil Judge, Junior Division, Kolhapur on 15th April, 2015 at 11.00 a.m. and produce the authenticated copy of this order.

7 It is made clear that it shall be open to the Civil Judge to decide the matter afresh and in accordance with law.

8 Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

9 In view of the disposal of the Civil Revision Application itself, nothing survives in Civil Application No.339 of 2011 and the same is also disposed of as infructuous.

All contentions of all parties are, therefore, kept open.

(M.S.SONAK,J.)