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IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11190 OF 2015
WITH
CIVIL APPLICATION STAMP NO. 32354 OF 2015

M/s.Saptashrungi Computers ... Applicant

Vs.

Nashik District Central Co-operative
Bank and others ... Respondents

Mr.S.R.Ganbavale, Advocate for Applicant.

CORAM : R.G.KETKAR, J.
DATE : 27th NOVEMBER, 2015

P.C. :

. Not on board. At the request of Mr.Ganbavale, taken up
in board.

2. Mr.Ganbavale seeks leave to amend the Writ Petition so
as to challenge the order dated 19/10/2015 whereby the learned
trial Judge confirmed the sale. Leave to amend as prayed for is
granted as the Petition is pending for admission. Amendment shall
be carried out forthwith.

3. By this Petition under Article 227 of the Constitution of
India, original judgment-debtor has challenged the orders dated
03/10/2015 below Exhibits 62, 63 and 64 as also order dated
19/10/2015 passed by the learned Civil Judge, Senior Division,

Malegaon (Nashik) in Special Darkhast No. 29 of 2006.

4. Mr.Ganbavale fairly stated that as the learned trial Judge has passed order on 19/10/2015 under Order 21 Rule 92 of the Code of Civil Procedure, 1908 (for short C.P.C.), the petitioner has remedy to file Appeal under Order 43 Rule 1(j) of C.P.C. Upon taking instructions from the representative of the petitioner who is present in the Court, Mr.Ganbavale seeks permission to withdraw the Writ Petition with liberty to file appropriate proceedings challenging the impugned orders. He further states that all the contentions raised in the present Petition as also contentions challenging the impugned orders may be kept open and for a period of 2 weeks from today, respondent No.2 should be prohibited from taking possession of the property sold in auction and purchase money should not be given to respondent No.1 – Bank. He further states that proceedings before the Executing Court may be stayed for a period of 2 weeks. He further states that petitioner will neither create third party interest nor part with possession of the properties sold in auction.

5. In view of above, Petition is allowed to be withdrawn with liberty as prayed for. All the contentions raised in the Petition challenging the impugned orders are kept open.

6. Notwithstanding the withdrawal of the Petition, for a period of 2 weeks from today, subject to the petitioner neither creating third party interest nor parting with possession, respondent

No.2- auction purchaser shall not take possession of the properties sold in auction as also respondent No.1 shall not withdraw the amount deposited by respondent No.2. For a period of 2 weeks from today, proceedings before the Executing Court are stayed.

7. It is expressly made clear that this order shall operate without prejudice to the rights and contentions of the respondents No. 1 & 2 and if the petitioner takes out appropriate proceedings, the learned trial Judge will consider interim application on its own merits uninfluenced by granting interim protection for a period of 2 weeks in favour of the petitioner.

(R.G.KETKAR, J.)