

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11311 OF 2015**

Singh Sanjay Shyamdeo	...Petitioner
<i>Versus</i>	
Abhyudaya Cooperative Bank Limited	...Respondents

Mr. Mayur Khandeparkar, with Mr. Vivek Phadke, i/b Kaikini
Phadke & Associates, for the Petitioner.
Mr. Madhur Rai, i/b PRS Legal, for the Respondents.

CORAM: A. S. OKA & G.S. PATEL, JJ.
DATED: 18th November 2015

PC:-

1. Not on board. Taken on board.

2. Heard the learned counsel appearing for the Petitioner and the learned counsel appearing for the Respondents. It is pointed out that an Appeal preferred by the Petitioner, being Appeal No. 257 of 2015, is fixed before the learned Chairperson of Debts Recovery Appellate Tribunal on 1st December 2015. It is pointed out that the Petitioner is likely to be dispossessed on 19th November 2015. It is pointed out that the learned Chairperson is not available till 20th November 2015.

3. The learned counsel for the Petitioner, on instructions, states that the Petitioner will pay further amount of Rs. 5 lakhs to the Respondent-Bank on or before 30th November 2015. We accept the statement made on instructions as undertaking of the Petitioner.

4. It is obvious that if the Petitioner commits breach of the said undertaking, the pending Appeal preferred by the Petitioner will have to be dismissed. Hence, we dispose of the Petition by passing the following order:

- (a) We accept the undertaking of the Petitioner of depositing a sum of Rs. 5 lakhs with the Respondent-Bank on or before 30th November 2015;
- (b) In view of the said undertaking, till 1st December 2015 action of dispossession shall not be taken by the Respondents;
- (c) We make it clear that in the event the Petitioner commits breach of the aforesaid undertaking, the Appeal preferred by the Petitioner, being Appeal No. 257 of 2015, shall be dismissed by the Debts Recovery Appellate Tribunal;
- (d) If compliance with the undertaking is made by the Petitioner, the learned Chairperson of the Debts Recovery Appellate Tribunal will proceed with the Appeal in accordance with law;

- (e) The Petition is disposed of on above terms.
- (f) All contentions on merits are kept open.

(G. S. PATEL, J.)

(A. S. OKA, J.)