

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12441 OF 2015**

Mustaqeem A. Shaikh & Anr.	...Petitioners
<i>Versus</i>	
Kokan Mercantile Co-op. Bank Ltd.	...Respondent

Mr. Mohan B. Jadhav for the Petitioner.
Mr. Prashant Naik i/b Mr. S. R. Waghmare for the Respondent No.
1.

**CORAM: A. S. OKA & G.S. PATEL, JJ.
DATED: 15th December 2015**

PC:-

1. Not on board. Taken on board.
2. Papers are produced at the instance of the Petitioner. Clause 2 of order dated 11th December 2015 reads thus:

"2. The learned counsel appearing for the Petitioners states that the first Petitioner is personally present in the Court. The Petitioner for himself and on behalf of the second Petitioner undertakes to the Court to pay the sum of Rs. 5 lacs to the Respondent on or before the Friday 18th December 2015. We accept the undertaking."

3. Today, the learned counsel appearing for the Petitioners tenders undertaking only of the 1st Petitioner. The said undertaking is not in terms of the oral undertaking recorded in clause 2 of the the order dated 11th December 2015. The 1st Petitioner wants the deposit to be made with DRAT. He does not want to pay the amount of Rs. 5 Lakhs to the Respondent. The said undertaking is taken on record and marked "X1" for identification. The undertaking is not in compliance with the order dated 11th December 2015. The learned counsel appearing for the Petitioners, on instructions of the 1st Petitioner, who is personally present in Court, states that the Petitioners are not willing to pay the sum of Rs. 5 Lakhs directly to the Respondent and they are not willing to file any undertaking in terms of Clause 2 of this Court's order dated 11th December 2015.

4. Hence, the Petitioners have committed breach of undertaking recorded in the order dated 11th December 2015. Hence no case is made out to interfere in the writ jurisdiction of this Court under Article 226 of the Constitution of India.

5. The Writ Petition is rejected.

(G. S. PATEL, J.)

(A. S. OKA, J.)