

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION (L) NO.570 OF 2014
IN
OFFICIAL LIQUIDATOR'S REPORT NO.5 OF 2013
IN
COMPANY PETITION NO.423 OF 2010
ALONG WITH
COMPANY APPLICATION NO.188 OF 2013
IN
COMPANY PETITION NO.423 OF 2010**

Omkar Kanegaonkar	...	Applicant
and		
International Asset Reconstruction Company Pvt. Ltd.	...	Petitioner
versus		
Deepak @ Gajanan Kanegaonkar and Ors.	...	Respondents

Mr. Nishant Sangle i/by Ms. Navaneetha Krishanan T., for Applicant.

CORAM: S.J. KATHAWALLA, J.

DATE: 10th APRIL, 2015

PC.

1. The above Company Application is filed for the following reliefs :

(a) declare that where a question of its own jurisdiction is raised before a Court or Tribunal and a superior Tribunal, though of limited jurisdiction which this Hon'ble Court constitutes to be under the Companies Act, unlike the plenary powers which are invested in it under Article 226 of the Constitution and the Civil Procedure Code, such Court or Tribunal, here this Hon'ble Court, is duty bound to decide the

said question as a preliminary issue as the question raised is a fundamental one, namely whether or not the Petitioner International Asset Reconstruction Company Pvt. Ltd., could simultaneously invoke the jurisdiction under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, whereunder it can itself act as a Tribunal in substitution of the Civil Court without withdrawing the suit / O.A. Instituted by it under Section 19 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993, though the proviso to the said Section expressly requires so, and if the Petitioner could simultaneously pursue different forums, whether or not in such a situation it is bound to elect the various forums open to it even while it is to be assumed that the remedies which it seeks are not inconsistent and it is entitled to seek all remedies;

(b) without prejudice to the above prayer and in furtherance thereto; to decide the question as to whether or not this Hon'ble Court could determine the question of tenancy either founded on statute or on equity in so far as in the eye of law all subjects/citizens are equal and the jurisdiction to determine the question of tenancy is entirely vested in the Courts of Small Causes / Rent Control Tribunals created in substitution of the Civil Court;

2. The Company Application is today placed on board for rejection

on the ground of non-removal of office objections.

3. An undertaking was given to the Court office on 07-11-2014 in the above Application that the Vakalatnama of Ms. Navaneetha Krishanan T., shall be filed within a period of 7 days from 07-11-2014. However, the undertaking is breached and till date the Vakalatnama is not filed.

4. Objections are raised by the Court Office on 15-11-2014. The objections are till date not removed. In view thereof, the Company Application is dismissed under Rule 986 of the Original Side Rules.

(S.J.KATHAWALLA, J.)