

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 285 OF 2016

DR. SAU. JAYAPRABHA W/O DILIP PATIL
VERSUS
THE CHOPDA PEOPLES COOPERATIVE BANK LTD.

...
Advocate for Petitioner : Shri Deshpande C.R.
Advocate for Respondent : Shri Bhandari Anand P.

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: June 13, 2016
...

PER COURT :-

1. I have heard the learned Advocates for the petitioner and the respondent.
2. In the light of the admitted factors, I am not required to advert to the entire submissions of the learned Advocates.
3. The petitioner has expressed a serious apprehension that the impugned order is likely to be misused by the respondent Bank.
4. There is no dispute with regard to the fact that one of the authorized signatories to represent the Bank Shri Pravin Sohalal Sanghvi has filed the complaint, signed the verification and had also led oral and documentary evidence. There is no dispute that the copy of the resolution No.8 dated 12.6.2001 has been proved before the learned Judicial Magistrate. It is also not disputed that both the sides have led their evidence and the matter is posted for advancing final submissions.
5. It is at this stage, that the respondent filed an application dated 1.12.2015, bringing it to the notice of the learned Magistrate that the copy of the resolution exhibited in the proceedings does not reflect all the five names of the authorized persons and the name of one authorized person

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2

CRIMINAL WRIT PETITION NO. 285 OF 2016

Shri Anil Pralhad Kulkarni was inadvertently left out when the copy of the original resolution was prepared. It is for this purpose that leave to produce the original proceeding book containing resolution No.8, dated 12.6.2001 was sought and leave was also asked for to prove the said original proceeding book.

6. In the above backdrop, the learned Magistrate, by the impugned order dated 29.1.2016, has allowed the application filed by the respondent by imposing costs of Rs.200/-. The respondent / Bank is permitted to produce the original proceeding book and prove the same through the same authorized complainant who has filed the complaint, signed it's verification and led evidence.

7. Grievance of the petitioner is that the respondent Bank is likely to bring in another authorized person for adducing evidence so as to prove the original proceedings.

8. I find the apprehension of the petitioner to be mis-conceived. By the impugned order, the learned Magistrate has specifically directed that the authorized complainant be 'recalled'. When a particular witness is permitted to be recalled, it goes without saying that the said witness is not to be replaced by another witness lest it would do violence to the term "recalled".

9. In the light of the above, this petition being devoid of merits, is dismissed.

(RAVINDRA V. GHUGE, J.)

...