

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.3402/2014

**15 CIVIL APPLICATION NO. 3402 OF 2014
IN
WP/1015/2006**

The Jagdamba Sahakari Sakhar Karkhana
Limited At Post Jagdamba Factory,
Tq. Karjat, Dist. Ahmednagar,
Through its Liquidator.

...APPLICANT

VERSUS

1. The Assistant Provident Fund Commissioner
And Recovery Officer, Employees Provident Fund
Organization, Sub-Regional Office,
Bhavishya Nidhi Bhavan,
Plot No.11, M.I.D.C., Satpur,
NASHIK 422 007
2. The Ahmednagar District Central
Co-operative Bank Ltd.,
Head Office at Station Road,
Ahmednagar, Tq. and Dist. Ahmednagar,
Through its Managing Director.

...RESPONDENTS

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Advocate for Applicant : Mr.Shinde Chandrakant K.
AGP for Respondent State:Mr.S.K.Kadam
Advocate for Respondent No.1 :Mr.K.B.Choudhari
Advocate for Respondent no.2 :Mr.R.N.Dhorde, Senior
Advocate with Mr.V.R.Dhorde

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CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: March 18, 2016

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PER COURT :-

1. The applicant, liquidator of the Jagdamba Sahakari
Sakhar Karkhana Limited, is seeking withdrawal of -

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Rs. 46,21,469/- deposited in this Court together with accrued interest.

2. In order to deal with the instant application, the long drawn history of the litigation need not be recorded; suffice it to record that, the respondent Bank claims entitlement to the amount in view of the order passed by the Division Bench of this Court in Writ Petition No.1015/2006 and other companion matters decided on 29th July, 2011. The order has been issued by the Division Bench after hearing all the parties concerned, including the applicant. This Court, in paragraph no.5 of the judgment has observed thus:

"5. In these circumstances, the Provident Fund Authorities are permitted to withdraw an amount of Rs.2,25,53,463/- together with interest as payable under the scheme framed under the Act of 1952 from the amount which is deposited in this Court. The balance amount, if any, shall be disbursed to the petitioner bank alongwith the interest accrued thereon. Both the Petitions are disposed of accordingly."

3. In view of the directions issued by this Court, entitling the respondent Bank to claim the balance of amount along with interest accrued thereon, the issue raised in the present application, according to us, has already been determined. It has not been demonstrated before us that the order passed by the Division Bench of this Court on 29th July, 2011 has been varied or set aside at any point of time. It is also not disputed that the amount of Rs.46, 21, 469/- lying with the Registry of this Court is towards interest accrued on the

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principal amount, and that since entitlement of the respondent is determined under the orders of this Court, we do not deem it appropriate to consider the request of the applicant favourably.

The application is devoid of substance and hence, stands rejected.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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