

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

919 WRIT PETITION NO. 4189 OF 2016

GANESH NAGORAO DUDHGAONKAR
VERSUS
BOMBAY MERCANTILE CO OPERATIVE BANK LTD THROUGH
BRANCH MANAGER AND OTHERS

...
Advocate for Petitioner : R.N. Dhorde, Sr. Counsel i/b. Dhorde
Vikram R
Advocate for Respondent 1 : A.D. Kasliwal
...

CORAM : T.V. NALAWADE, J.
DATED : 1st September, 2016.

ORDER :

1. The petition is filed under Articles 226 and 227 of the Constitution of India to challenge the order made by Arbitral Tribunal created under the provision of Multi-State Co-operative Societies Act, 2002. Heard both the sides.

2. It appears that one immovable property was mortgaged by respondent No. 6 to respondent No. 2, Multi-State Co-operative Bank. Afterwards in the year 2013, this respondent sold some portion of the said property to the present petitioner under registered sale deed. It is the case of petitioner that he was put in possession under the sale deed of the property sold and mutation proceeding was also started. In the meanwhile, respondent No. 1 - Bank, started arbitral proceeding created

under this Special Enactment against respondent No. 2 to 11 including the vendor of the petitioner. In the said proceeding, present petitioner filed application for allowing him to join as a party respondent. This application was opposed by the Bank and the application is rejected by the Arbitral Tribunal. To challenge that order, present proceeding is filed.

3. The learned Senior counsel took this Court through various provisions of aforesaid Special Enactment like provision of section 84 etc. This Court is avoiding to read those provisions or make observation with regard to the said provision due to other point regarding the tenability of the present proceeding itself.

4. The Arbitral Tribunal rejected the application and in view of the reasons, it needs to be presumed that the Arbitral Tribunal has held that the Tribunal has no jurisdiction to decide whatsoever dispute the petitioner has with any of the respondents including Bank. When such order is made, that order falls under section 16 (2) of Arbitration and Consolidation of Holdings Act, 1996. Such order is appealable in view of the provision of section 37 (2) (a) of the same Act.

5. In view of this position, the learned Senior Counsel for petitioner submits on instruction that he wants to withdraw the proceeding. Disposed of as withdrawn.

6. The statement, if any, already made by the learned counsel for the bank is to continue for the period of one week.

[T.V. NALAWADE, J.]

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