

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

912 WRIT PETITION NO. 10661 OF 2016

SANJAY HARIBHAU ANDHALE
VERSUS
DHANASAMPADA GRAMIN BIGAR SHETI MARYADIT MIDC
AHMEDNAGAR THRO MANAGER AND OTHERS

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913 WRIT PETITION NO. 10802 OF 2016

HARIBHAU SONU ANDHALE
VERSUS
DHANASAMPADA GRAMIN BIGAR SHETI MARYADIT MIDC
AHMEDNAGAR THRO MANAGER AND OTHERS

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Advocate for Petitioners : Gaware Niteen V.
Advocate for Respondent 1 : D.G. Nagode

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CORAM : T.V. NALAWADE, J.
DATED : 2nd December, 2016.

ORDER :

1. The petitions are filed to challenge the orders made of attachment by Civil Judge, Senior Division, Ahmednagar in Special Darkhast Nos. 37/2008 and 39/2008. Both the sides are heard.

2. Execution proceedings are filed against the present petitioners for execution of award. The submissions made show that in execution proceedings, there was compromise due to mediation done by one learned Judge of the Civil Court and the

bank gave up some claim in respect of interest and petitioners agreed to pay total amount of Rs. 36.80 lakh. The compromise was entered in to on 9.1.2015. Time was give to the petitioners to deposit this amount prior to 31.3.2015 and such undertaking was also given by the petitioners. The amount was not paid and time was again sought before the Civil Court and ultimately on 9.6.2016, order under challenge which is issuance of proclamation under the provision of Order 21, Rule 66 of Civil Procedure Code in respect of agricultural lands of petitioners came to be made.

3. The learned counsel for petitioners submitted that petitioner - Haribhau Andhale is old person, he has crossed age of 80 years and he and his son Sanjay are ready to give undertaking before this Court that every month they will pay Rs. five lakh towards repayment of loan amount. The learned counsel submitted that this undertaking may be accepted and accordingly, order may be made. This statement was made by the learned counsel for petitioners and he submitted that petitioners are present in the Court.

4. The aforesaid circumstances shows that sufficient opportunity was given to the petitioners and the bank has

already given concession in respect of some interest amount. But the petitioners did not pay the amount for which award is also given in favour of respondent bank. It can be said that by making such submissions, which are made in the present proceeding, the petitioners took the time for more than two years and even when they got some concession, they did not show bonafides by depositing the amount. The period of two years is over and it can be said that the bank will be entitled to recover the interest starting from 3.3.2015 which was the last date for making the payment. In view of these circumstances and as the petitioners did not fulfill the promise made by them in the past even after taking concession, this Court holds that no more concession can be given to the petitioners by using extraordinary jurisdiction. There is nothing illegal in the order made by the Civil Court like issuance as proclamation for recovery of the amount due to respondent.

5. In the result, both the petitions stand dismissed.

[T.V. NALAWADE, J.]

SSC/