

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 11375 OF 2015

Sandesh s/o Rajendraprasad Yadav ... Petitioner

Versus

The Manager,
The Mahanagar Co-operative Bank Ltd.,
Mumbai, Branch – Sangamner ... Respondent

.....
Mr. K. N. Shermale, Advocate for petitioner
Mr. R. N. Dhorde, Senior Advocate i/by Mr. V. R. Dhorde,
Advocate for respondent.

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CORAM : SUNIL P. DESHMUKH, J.

DATE : 18th MARCH, 2016

ORDER :

1. After hearing learned counsel for petitioner and learned senior advocate for respondent, the position appears that an application Exhibit-38 dated 16-09-2015 had been moved in Special Civil Suit No. 27 of 2015 before Civil Judge, Senior Division, Sangamner, seeking return of raw material

contended to be lying in the suit property. According to the petitioner, material has been seized by the bank and has not been returned to the petitioner in spite of request.

2. Learned counsel submit that no order has been passed on application Exhibit-38 hitherto. He further submits that during pendency of the suit, property has been sold out by the respondent to third person, and as such, petitioner apprehends that raw material is likely to be lost.

3. Learned senior advocate Mr. Dhorde at the outset submits that the proceedings before the trial court are not maintainable at all, having regard to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and that the petitioner will have to approach under the relevant Enactment to the Debt Recovery Tribunal. Learned counsel further contends that there is dispute about availability of raw material as alleged by the petitioner. He further submits that the property having been sold and possession also having been given to third person, no claim can lay against the creditor – respondent.

4. Having regard to that Exhibit-38 is yet not decided, I deem it appropriate that the same be considered and decided by the trial court.

5. Accordingly, Exhibit-38 in Special Civil Suit No. 27 of 2015 pending before Civil Judge, Senior Division, Sangamner be decided as expeditiously as possible preferably within a period of four weeks from the date of receipt of writ of this order, taking into account respective contentions and in accordance with facts and law.

6. Writ petition, as such, stands disposed of.

7. All contentions are kept open for the parties.

(SUNIL P. DESHMUKH, J.)

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