

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

WRIT PETITION NO. 11028 OF 2016

Mak Impex Chemicals Private Limited .. Petitioner
Vs
Central Bank of India .. Respondent

Mr.Rishabh Shah i/b N.S.Patel & Co., for the Petitioner.
Ms.Sapana Rachure i/b T.N.Tripathi & Co., for the Respondent.

***CORAM : N.M.Jamdar, J.
Thursday, 22 September 2016.***

P.C. :

Not on board. Taken on production board by way of praecipe.

2. The Petitioner has challenged the order passed by the learned City Civil Court Judge dated 11 August 2015 and 8 December 2014. By these orders the learned City Civil Court Judge in the Summary Suit No.1960 of 2004 filed by the Respondent-Plaintiff has permitted the Petitioner to file the written statement and the application for review filed by the Petitioner of this order, has been rejected. The learned counsel for the Petitioner relying on decision of learned Single Judge of this Court in the case of *Union Bank of India Vs. M/s.J.Raj and Co. & others – 2009(5) ALL MR 340*, contends that since the Summons for Judgment has not been taken

up there is no question of filing any written statement, as suit itself is not maintainable. All that the learned City Civil Judge has done is to give liberty to file written statement to the Petitioner. If it is a case of the Petitioner that suit is not maintainable and written statement need not be filed, the Petitioner can always file written statement to avoid any further litigation subject to the contention of the Petitioner that the suit is not maintainable and the written statement need not be filed. When the suit is taken up for consideration, learned City Civil Court Judge will consider this stand of the Petitioner which is taken and thereafter consider the merits of the defence of the Petitioner. Since this course of action is available to the Petitioner, which will also curtail further litigation, it is not necessary to interfere with the impugned orders. The Written statement be filed within period of three weeks from today. Writ Petition is disposed of with the above clarification.

(N.M.Jamdar, J.)