

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

MISC. CIVIL APPLICATION NO.255 OF 2016

State Bank of India .. Applicant
Vs.
M/s.Shivani Flexipack Limited .. Respondent

Mr.Umesh Shetty i/by Mr.Kusumakar Kaushik for the Applicant.
Mr.P.S. Dani, Senior Advocate i/by Mr.Shailesh Chavan for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 2nd December 2016

P.C.

. By this application filed under Section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of Special Civil Suit No.272 of 2012 filed by the respondent inter alia praying for damages in the Court of Civil Judge, Senior Division, Sangli to the Debt Recovery Tribunal.

2. Mr.Shetty, learned counsel appearing for the applicant invited my attention to the judgment of the Supreme Court in the case of ***Bank of Rajasthan Ltd. Vs.VCK Shares and Stock Broking Services Ltd.***, reported in ***2015 (1) D.R.T.C. 164 (S.C.)*** and submits that issue as to whether the suit filed by the borrower against the bank is ousted by virtue of scheme of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 in relation of the proceedings of recovery of debts by the bank or financial institution is referred to the larger bench pursuant to the order dated 17th September 2014 passed by the Supreme Court.

3. Mr.Dani, learned senior counsel appearing for the respondent, on the other hand, submits that the applicant has already raised an issue of jurisdiction in the written statement filed by the applicant which has to be decided by the trial Court. He submits that the matter is at the stage of cross-examination of the witnesses of the respondent.

4. Cross-examination is not yet commenced by the applicant for last one year. In my view, since the application raising the issue of jurisdiction by the applicant itself is pending before the learned trial Judge and in view of the fact that the issue referred to aforesaid is referred to a larger bench by the Supreme Court by an order dated 17th September 2014 in the case of ***Bank of Rajasthan Ltd.(supra)*** and in view of the fact that the matter is already at the stage of cross-examination of the witnesses of the respondent (original plaintiff) since last one year, I am not inclined to grant any relief in this application.

5. Misc. civil application is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.