

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION (L) NO. 1370 OF 2016**

Canara Bank .. Petitioner
versus
M/s. Shah Thakure and Sons & Ors. .. Respondents

Mr. Sanjay Jain with Ms Sapana Rachure for Petitioner.
Mr. Uday Warunjikar with Minesh Shah, G. C. Mohanty i/b. M/s.
Mohanty & Ass. for Respondent Nos. 1, 2 and 4.

**CORAM: V. M. KANADE AND
M. S. SONAK, JJ.**

DATE : 11 JULY 2016

P.C.:

1] Application is made for seeking extension of statement which is made by the respondent nos. 1, 2 and 4 on 8 July 2016 for another two days.

2] Learned counsel appearing on behalf of the petitioner submitted that the petitioner has already preferred appeal before the DRAT and the same is kept for hearing on 18 July 2016. He submitted that the order was passed on 8 July 2016 whereby this court was pleased to record the statement of the respondent nos. 1, 2 and 4 that they will not take any steps till 11 July 2016. He submitted that the said statement may be continued so that the petitioner will get an opportunity to apply for interim relief before the DRAT.

3] Mr. Warunjikar, learned counsel appearing for respondent nos. 1, 2 and 4 submitted that this petition has become infructuous since the petitioner has moved the DRAT on 5 July 2016. No interim relief

was granted in favour of the petitioner. He submitted that interim order passed by the DRT was vacated on 7 May 2016 and in order to enable the petitioner to approach the DRAT interim protection was granted. However, since the Chairman of the DRAT was not available, the petitioner filed this petition. There is much substance in the submission made by Mr. Warunjikar, learned counsel appearing for respondent nos. 1, 2 and 4 that this petition has become infructuous since the petitioner has already moved the DRAT. The record of the DRAT does not show that the interim order was passed by the DRAT on 5 July 2016. According to the learned counsel appearing for the petitioner they could not press for interim orders since the papers and proceedings were lost in transit.

4] Since there is some ambiguity as to whether in fact application for interim relief was pressed or not, as a last chance, we give two days time to the petitioner to apply for interim relief before the DRAT. Till that time, the Recovery Officer shall not release the amount which is lying deposited. We make it clear that this order has been passed in order to enable the petitioner to approach the DRAT. We have not passed this order on merits and the contention of the respondents are kept open that DRAT shall not be influenced by this order and may pass independent orders on merits and in accordance with law. The petitioner shall give 24 hours written notice before moving the DRAT. No further extension will be granted.

5] The petition is disposed of accordingly.

(M. S. SONAK, J.)

(V. M. KANADE, J.)

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