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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No.3051 OF 2015

Jijamata Sugars Pvt. Ltd., Jalna Through its Chairman Vijay Kothari.

-Vrs.-

Maharashtra State Cooperative Bank Ltd., Aurangabad, Through its Assistant Manager
and another.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Tushar Darda, counsel for petitioner.
Mr. R.D. Bhuibhar, counsel for respondent no.1.
Mrs. Hiwase, AGP for respondent no.2.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 15th March, 2016

We have heard the matter on last occasion and only to enable the petitioner to show bonafide, the matter came to be adjourned for today. Today, effort is being made to re-argue the matter.

We find that DRAT apart from non-compliances which it had looked into in the impugned has in paragraph 7 made following observations.

“7. At request of both the counsels, the main appeal itself taken up today. The aforesaid events and facts are not in dispute. The appellant has participated in the auction conducted in the year 2007, wherein the appellant emerged as highest bidder with offer of Rs.15.15 Crores. The appellant has deposited Rs.1.80 Crores and taken over the possession of the sugar factory. Lateron, without making the payment of outstanding, the appellant

requested for extension of time to deposit the amount. The Writ Petition No.2735 of 2012 filed by the appellant requesting for such extension has been withdrawn by the appellant. Admittedly, thereafter, the liquidator of the respondent no.2 has already forfeited the entire amount deposited by the appellant and has taken over the possession from the sugar factory from the appellant on 19.11.2012. The said order has not been challenged by the appellant. The appellant has also not disclosed about the said fact in the present appeal. Thus, the appellant has suppressed this material aspect which has bearing on the present dispute. From the perusal of the record, it can be seen that the appellant has taken over the possession of the sugar factory way back in the year 2009 by merely paying an amount of Rs.1.80 Crores. Thereafter the appellant has not paid the entire remaining amount and has started unnecessary litigation to prolong the matter.”

In this situation, as the learned counsel for respondent no.1 bank reiterates that he has been instructed not to agree to any lower amount than Rs. 21,02,75,675/-, we find no merit in the petition. Petition is accordingly rejected. No costs.

JUDGE

JUDGE

Hirekhan