

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1349 OF 2017

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms.Lancy D'souza with Ms.Deepika Agarwal i/b
Mr.V.M. Parkar for the petitioner

Mr.Suresh Kumar for the respondent

CORAM : K. K. TATED, J.

DATE : FEBRUARY 1, 2017

P.C.:

1 Not on board. At the request of Advocate for the petitioner, matter is taken on board for urgent orders.

2 By this Petition under Article 227 of Constitution of India, the petitioner challenges the order dated 13.12.2016 passed by Assistant Provident Fund Commissioner, (Compliance-I), Regional Office, Mumbai II, Thane under section 7-A of the Employees Provident Fund & Misc. Provisions Act, 1952.

3 The learned Counsel for the respondent raised preliminary objection about the maintainability of the Writ Petition. He submits that alternate efficacious remedy is available to the petitioner by preferring Appeal under section 7-I of the said Act. Whereas the learned Counsel for the

petitioner submits that our Hon'ble Court in the matter of *M/s.Sant Dnyanenshwar Hospital Pvt. Ltd. vs. Office of the Regional Provident Fund Commissioner, Pune 2016 LLR 202* held that if impugned order passed under Section 7A of the said Act does not contain in an reasoning at all, same can be challenged by preferring Writ Petition under Article 227 of the Constitution of India. Hence, Writ Petition is maintainable.

4 In the present case in hand, impugned order contains reasoning. Hence, when alternate efficacious remedy is available to the petitioner, there is no question of entertaining the present Writ Petition.

5 Considering the submissions made by both the sides and in any case, the appeal period is not over till today, following order is passed:

- a) Liberty granted to the petitioner to file Appeal under section 7-I of the said Act.
- b) Till Appeal period is over, respondents are restrained from taking any coercive action against the petitioner pursuant to the orders dated 13.12.2016 under Section 7A of the said Act and 25.1.2017 being no. MH/205554/PF/RO/Mumbai-II/THN/Circle-I/25.
- c) Writ Petition stands disposed of accordingly.

JUDGE