

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10283 OF 2017

The Rayat Sevak Co-Op. Bank Ltd., Satara	Petitioner
Versus	
Nandkumar Hanmantrao Lembhe & Ors.	Respondents

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Mr. Milind Deshmukh for the Petitioner.
Mr. Sachin Gite a/w.Ms.Chaitrali Deshmukh for respondent Nos.1 and 3.
Mr. A.R. Metkari AGP for respondent No.4.

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CORAM : PRASANNA B. VARALE, J.

DATED: 14 SEPTEMBER, 2017

P.C.:

. Heard learned Counsel for the Petitioner.

2. Petitioner is the bank namely Rayat Sevak Co-Op. Bank Ltd. Respondent Nos.1, 2 and 3 approached the Labour Courts by filing the complaints. Perusal of the record show that applications were filed at the instance of the petitioner seeking transfer of the complaints. The application filed by the bank was with a prayer to transfer the ULP Complaints namely Complaint (ULP) No.34 of 2016 filed by Nandkumar Lembhe, Complaint (ULP) No.30 of 2016 filed by Sunil Pawar and Complaint (ULP) No.20 of 2016 filed by Punjaram Kotwal be transferred to the learned Labour Court, Satara. It was submitted in the application of the bank that as the subject involved in all these three complaints is an

identical subject and the controversy involved in these complaints in respect of mischief played by the complainants. It was submitted that the petitioner bank is of the opinion that all these three complainants are involved personally in the said mischief. The charge-sheet was issued against the complainants and enquiry was also conducted. It was submitted in the application filed by the petitioner bank that it may be possible that the evidence in the nature of the documentary evidence of the bank would be called before all these three Labour Courts, wherein the complaints are filed namely Satara, Ahmednagar and Nashik. It was submitted that these complainants may tender separate evidence in these complaints and it will be in the interest of the bank to present all the material including the official documents and other relevant material before one Court. Thus, with these submissions, an application was filed for transferring these cases at Satara before the learned Labour Court, Satara. To the application filed by the bank, the say was submitted by one of the complainant namely Nandkumar Lembhe on 24.10.2016. The respondent Nandkumar Lembhe submitted that if the cases are transferred to the Labour Court, Khamgaon, he won't have any objection. The other respondents namely respondent Nos.2 and 3 submitted their say. In the say filed by these two respondents, it was submitted that the alleged mischief against these respondents took place at Nashik. The enquiry ought to have been conducted at Nashik. The enquiry was conducted at Satara, the place which was far away. It was also submitted that if the matters are transferred to Satara, it would cause serious hardship and also financial hardship to these respondents. In the say filed by these respondents, they prayed for transfer of these complaints to the Court of learned Labour Judge, Pune. The learned

President of the Industrial Court on considering the application filed by the bank as well as the say submitted by these respondents, arrived at a conclusion that on consideration of the application and on consideration of the say, found that it was the specific allegation of the petitioner bank that the alleged fraud took place at Nashik. It was also the case of the petitioner bank that the respondents were at the branch of the bank at Nashik where the alleged fraud was played. The allegation of issuing cheques was also an act taken place at Nashik. Learned President was of the opinion that the petitioner was in a position to present all the material before the learned Labour Court at Nashik for the consideration and decision/disposal of the complaints.

3. Accordingly, the learned President while allowing the application, directed that the complaints filed by the respondents at the various Courts namely at Satara, Ahmednagar and Nashik be transferred to the learned Judge of Labour Court, Nashik and these complaints be tried together. Learned President also protected the interest of the parties by directing the learned Labour Court to expedite the proceedings considering the fact that the amount of the alleged misconduct and fraud is to the tune of Rs.10 Crores and also the fact that the respondents are out of employment. The order passed by the learned President is challenged only on the ground that it was inconvenient for the petitioner bank to present the material on record before the learned Labour Court, Nashik. As no error was committed by the learned President in the order dated 13.12.2016 on the consideration of the ground raised on the financial difficulties of the respondents as well considering the ground that the alleged fraud was played at Nashik, the respondents were

working at the Nashik branch at the relevant time and major acts involving of the fraud took place at Nashik, the mere ground of inconvenience of the petitioner that too a bank cannot be a ground to interfere with the order impugned in the petition. Impugned order is passed on a proper appreciation of the material and just order protecting the interest of the parties. The petitioner bank having the manpower and machinery available with it can certainly make arrangements to produce the record for consideration before the learned Judge at Nashik.

4. The petition thus being thoroughly meritless deserves to be dismissed at the admission stage. Accordingly, the petition is dismissed.

(PRASANNA B. VARALE, J.)