

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

**WRIT PETITION NO.2997 OF 2006
with
CIVIL APPLICATION NO.2799 OF 2009
IN
WRIT PETITION NO.2997 OF 2006**

M/s.Jamkhandi Sugar Ltd. ... Petitioner

Vs.

M/s.Kay Bouvet Engg. Pvt. Ltd. & Ors. ... Respondents

Mr.Y.V. Divekar with Rohan Karande for the Petitioner
Mr.S.S. Kanetkar with t.P. Hartalkar for Resp. No.1

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 14, 2017**

P.C. :

1. This Writ Petition is directed against the order dated 22.12.2005 passed by the learned District Judge, Satara, in Miscellaneous Civil Appeal No.23 of 2005 thereby confirming the judgment and order dated 1.11.2004 passed by the 2nd Joint Civil Judge, Junior Division, Satara, below exhibit 5. Respondent No.1 in the petition has filed a suit for restraining Respondent No.2 / original defendant No.1, from making payment under the Bank Guarantee to the petitioner, who is the original defendant No.2 in

the said suit. The application was filed by the plaintiff below exhibit 5 for the order of temporary injunction that the defendant Bank shall not make payment invoking the Bank Guarantee. The trial Court passed interim order restraining defendant No.1 from making payment towards alleged invocation of Bank Guarantee No.2000/767 dated 19.10.2000 to the original defendant No.2 i.e., the petitioner, till the decision of the suit. The said order was challenged before the learned District Judge in Miscellaneous Civil Appeal and the learned District Judge confirmed the said decision of the trial Court by order dated 22.12.2005 and hence, this Writ Petition was filed, which was admitted and now it has come up for final hearing.

2. At the time of hearing of this matter, it is found that the Regular Civil Suit No.43 of 2002 is stayed and still pending on the file of the learned Civil Judge, Junior Division, Satara. The respondent / Bank is restrained from making the payment. Hence, the entire transaction as on today is stand-still. The suit is 15 years old and, therefore, it is appropriate to decide the suit after recording the evidence on merits. The learned Counsel for both the parties fairly concede to proceed with the matter in the trial Court

and get the suit finally decided on merits. In view of this, the Writ Petition is disposed of with the following order:

ORDER

i) The trial Court is directed to expedite the Regular Civil Suit No.43 of 2002 and dispose it as expeditiously as possible and in any event, on or before 28th February, 2018.

3. In view of the disposal of the Writ Petition, nothing survives in the Civil Application and the same is disposed of as such.

(MRIDULA BHATKAR, J.)