

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**WRIT PETITION NO.38 OF 1992
WITH CIVIL APPLICATION NOS. 111 OF 1996, 7983 OF 2012
AND 12256 OF 2017**

Ashok Parvatrao Desai
(died) through LR's
Rubhiraj @ Randiraj Ashok Desai,
Age-Major, Occu-Business,
R/o S-4, Maheshwari App.
10th Cross, Bhagyanagar,
Belgaon (Karnataka)

-- PETITIONER

VERSUS

1. Ashok Sahakari Sakhar Karkhana Ltd.,
Ashoknagar,
Post.Kanegaon,
Taluka : Shrirampur,
Dist.Ahmednagar

2. Maharashtra State Co-operative Land
Development Bank Ltd.,
District Branch at Ahmednagar

-- RESPONDENTS

Mr.P.R.Patil with Mr.I.A.Chandorikar, Advocate for the petitioner.
Mr.R.R.Karpe, Advocate for respondent No.1.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 27/09/2018

ORAL JUDGMENT :

1. By this petition, the original respondent in the dispute before the Co-operative Court has put forth prayer clause B as under :-

“Quash and set aside the order passed by the Maharashtra State Co-operative Appellate Court, Bench at Aurangabad in Appeal No.182/1990 to the extent of deposit of the amount of Rs.1,50,000/- by the petitioner with the respondent No.1-Karkhana.”

2. Based on prayer clause B, an interim relief is prayed for by the petitioner. By order dated 15/01/1992, the impugned order of the Appellate Court was suspended. By order dated 19/08/1992, the ad-interim protection was vacated and the petition has been admitted.

3. By an order passed on 04/02/2004 on CA No.4028/2003, the execution proceedings pending before the Executing Court for seeking the execution of the decree, was permitted to proceed in accordance with Law.

4. By order dated 18/05/2012, the petitioner was directed to deposit an amount of Rs.1,50,000/- passed in CA No.5918/2012.

5. Considering the above, it is obvious that the petitioner is aggrieved by the impugned order of the Appellate Co-operative Court dated 19/09/1991, only to the extent of the imposition of the

condition of deposit of Rs.1,50,000/-. This amount having been already deposited and since this petition is pending for 26 years with no challenge to the order of remanding the dispute proceedings to the Co-operative Court for final adjudication, I am of the view that this petition is rendered infructuous and I am not required to go into the rival contentions of the parties.

6. This petition is, therefore, disposed of. Rule is discharged. The amount of Rs.1,50,000/- deposited by the petitioner in this Court on 14/06/2012 shall be transferred by the Registry of this Court alongwith accrued interest to the Co-operative Court at Shrirampur forthwith and the said amount shall be invested by the Co-operative Court in a Nationalized Bank having a branch at Shrirampur for an initial period of 9 months.

7. The Co-operative shall decide Case No.SR/ABD/323/1985 on or before 28/02/2019. No extension of time shall be sought by the learned Judge of the Co-operative Court keeping in view that the dispute is pending for 33 years.

8. The litigating sides shall appear before the Co-operative Court, Shrirampur on 12/10/2018. Formal notices need not be issued.

They shall extend their co-operation to the Co-operative Court for the disposal of the dispute within the time frame and shall not seek adjournment on unreasonable and trivial grounds. The Co-operative Court would be at liberty to refuse adjournments.

9. Considering the above, pending civil applications do not survive and stand disposed of.

(Ravindra V.Ghuge, J.)

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