

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 12256 OF 2018
WITH
CIVIL APPLICATION NO. 6073 OF 2018
AND
APPEAL FROM ORDER NO. 37 OF 2018

RAJLAXMI INFOTECH PRIVATE LTD.
VERSUS
VAIDHYANATH URBAN CO-OPERATIVE BANK, LTD.

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Advocate for Applicant : Shri Khandare N.B. h/f Shri Jadhavar S.G.
Advocate for Respondent : Shri Natu S.V.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 04, 2018

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PER COURT :-

CIVIL APPLICATION NO. 12256 OF 2018

1. The applicant has stated substantial reasons in the application to explain as to how the applicant could arrange for the remaining amount of Rs.60,00,000/- to be deposited in this Court. An amount of Rs.90,00,000/- were already deposited on 20.8.2018 and the amount of Rs.60,00,000/- was to be deposited by 7.9.2018. An unconditional apology is tendered through the civil application and it is stated that Rs.60,00,000/- are being deposited in this Court vide two demand drafts.

2. The learned Advocate for the respondent / Bank opposes the application.

3. Considering the above, the Civil Application is allowed in terms of prayer clause (B). Two demand drafts shall be accepted by the office on/or before 10.10.2018.

4. Since the ordered amount of Rs.1,50,00,000/- has been deposited in this Court, the ad-interim protection granted by this Court on 10.7.2018, shall continue.

APPEAL FROM ORDER NO. 37 OF 2018

5. By consent of the parties, the Appeal from order is taken up for hearing.

6. I have considered the submissions of the learned Advocates and have perused the impugned order dated 18.4.2018 passed by the appellate Court, thereby, rejecting application Exhibit 5 and refusing interim relief to the appellant in RCA No.27 of 2018.

7. The substantive appeal of the applicant / appellant is pending before the appellate Court. The appellant has approached this Court

against an inter locutory order, by which, though the appeal is to be heard finally by the appellate court, interim relief was refused.

8. I find that if the rival contentions of the parties are to be considered at an inter locutory stage, this Court would practically have to hear the appeal. Instead, the ends of justice would be met by directing the appellate Court to proceed to decide the appeal expeditiously.

9. In view of the above, this appeal from order is partly allowed by continuing the relief granted to the appellant by this Court vide order dated 10.7.2018. The respondent / Bank is permitted to withdraw the entire deposited amount from this Court along with the accrued interest, if any and on this condition the appellant would stand protected against coercive steps pursuant to the order of the trial Court rejecting the plaint under Order VII Rule 11 of the CPC. The appellate Court shall, therefore, decide RCA No.97 of 2013 as expeditiously as possible and in any case on/or before the 28.2.2019.

10. It is made clear that as the respondent / Bank is withdrawing the amount of Rs.1,50,00,000/-, it shall stop levying interest on this much amount and this withdrawal shall be subject to the result of the appeal.

11. Pending Civil Application No.6073 of 2018 does not survive and stands disposed off.

(RAVINDRA V. GHUGE, J.)

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akl/d

Ajay
Kishanrao
Losarwar

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signed by Ajay
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