

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8343 OF 2014

**MOHINI MUKUND POTNIS
VERSUS
THE STATE BANK OF INDIA, JALGAON AND OTHERS**

...
Advocate for the Petitioner : Shri K.C.Sant
Advocate for Respondent No.1 : Shri P. B. Paithankar
Advocate for Respondent No.3 : Shri S. S. Deshmukh
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CORAM : RAVINDRA V. GHUGE, J.

DATED : 27th AUGUST, 2018.

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PER COURT :

1. The petitioner is aggrieved by the order dated 10/07/2014, by which, the trial Court has rejected the application Exhibit 145 seeking production of documents and for examining the Central Information Officer-cum-General Manager, Bandra Kurla Complex, State Bank of India.
2. I have considered the strenuous submissions of the learned Advocates for the respective sides.
3. In so far as the documents at Sr. Nos. 1 and 2 are concerned, I find from the impugned order that those documents are already placed on record and carry the Exhibit Nos. 130 and 134.

4. The documents at Sr.No. 3, 17 and 18 are concerned, the extract of accounts of the defendants is also produced on record which is pertaining to the period from 17/06/1998 till the date the impugned order was passed.

5. The document at Sr.No. 4 has also been furnished by the plaintiff in connection with the loan sanctioned to defendant No.1.

6. The document at Sr.No. 7 has been confronted to the plaintiff witness No.1 and he has denied in his cross-examination that the proposal for one time settlement was offered to the borrower and hence, no details of a non-existing proposal could be produced.

7. In so far as the document at Sr.Nos. 8 and 9 are concerned, the copy of the extract of the account has been filed on record which would disclose the entire statement of accounts containing the amounts deposited by the borrower. Those documents are not to be produced when the statement of accounts takes care of such documents.

8. In so far as the document at Sr.No. 16 is concerned, the document pertaining to the loan transaction has been produced by the plaintiff. Since the plaintiff relies upon those

documents, it would be for the plaintiff to establish its case. Said documents are not required to be re-submitted.

9. In so far as the names of the guarantors are concerned, the plaintiff has placed the said names on record. With regard to an agreement between defendant No. 1 and Bajaj Auto Company is concerned, the said agreement is between the said defendant and Bajaj Auto and the plaintiff cannot produce the said agreement. Defendant No.1 can, while leading evidence, rely on the said agreement.

10. I find that the documents at Sr.Nos. 5, 6, 7, 8, 12, 13 and 14 that they are practically in the form of interrogatories and do not constitute particular documents. Such questions can be posed by the petitioner to any of the witness to be examined by the plaintiff or the actual borrowers. As such, in my view the impugned order to the extent of application Exhibit 147 is concerned, cannot be faulted and requires no interference.

11. In so far as the examination of the Central Information Officer of the plaintiff bank is concerned, the trial Court had passed an order on 13/08/2013, issuing summons to the said Officer. As the summons were not served, fresh summons were again issued. The said Officer is still not served with summons

probably for the last five years, since this Court (Coram : Sunil P. Deshmukh, J.) had stayed the proceedings before the trial Court by the order dated 22/09/2014. It cannot be disputed that once summons are issued by the trial Court to a particular Officer, the said order cannot be reviewed by the same Court and especially in the absence of any challenge.

12. The learned Advocate for the plaintiff bank graciously submits that though the learned Advocate on record before the trial Court may not have applied his mind to the fact that the Central Information Officer would have no knowledge about the pending case, the concerned Information Officer situated at Jalgaon can be produced as a witness in place of the Central Information Officer. The learned Advocate for the petitioner agrees to the said proposition.

13. In view of the above, this petition is disposed off and based on the statements made, the plaintiff bank would produce the concerned Information Officer situated at Jalgaon namely, Mr. Sushil Kumar, Assistant General Manager presently at Regional Business Office, Jalgaon as its witness on 24/09/2018.

14. The petitioner shall examine the said Officer as the

witness of the petitioner- original defendant No.3.

15. Since the documents are already on record, the petitioner or the litigating sides would be at liberty to refer to those documents, which have been granted exhibit numbers and shall follow the Evidence Act for proving the documents or confronting the witness. No adjournment would be sought by the petitioner and the examination of the said witness will be concluded in continuity beginning from 24/09/2018.

16. Since the Special Civil Suit No. 149/2002 is pending for the last 16 years and has been stayed for 4 years, the trial Court shall expedite the hearing of the suit and shall endeavour to decide the same as expeditiously as possible and in any case on or before 31/03/2019.

(RAVINDRA V. GHUGE, J.)

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