

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

3 WRIT PETITION NO. 10707 OF 2018

THE OSMANABAD DISTRICT CENTRAL CO-OPERATIVE
BANK LTD THROUGH AUTHORIZED OFFICER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. R.N.Dhorde (Senior Counsel) h.f Mr. V.R.Dhorde,
Advocate for Petitioner.
Mrs. V.N.Patil-Jadhav, AGP for Respondents-State.
Mr. Hiraji Gaikwad, Advocate for Respondent Nos.5 & 6.

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**CORAM : R.M.BORDE AND
MANGESH S. PATIL, JJ.**

DATE : 15.10.2018

PER COURT :-

1. The petitioner is praying for issuance of directions to Respondent Nos.1 to 4 to grant approval to the consent terms presented on 14.09.2016 along with modified consent terms submitted by the petitioner-bank to the respondents, within specified time period.
2. The notice under Section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 was issued to the Respondent / Karkhana seeking recovery of amount of Rs.175,56,26,271/-. An action under Section 13(4) was taken and the assets of

respondent have been taken in possession by the Bank. The said action was challenged by the Bank by presenting S.A No.115 of 2012 before the Debt Recovery Tribunal, and the same was allowed. The appeal is presented challenging the decision of the Debt Recovery Tribunal and said appeal is stated to be pending. The Appellate Forum has granted stay to the order passed by Debt Recovery Tribunal by an order dated 29.04.2013. In the meanwhile, liquidation proceedings of the Karnakhana were initiated and the preliminary order was passed on 15.06.2017 and the final order of liquidation also came to be issued on 20.11.2017. During the intervening period, while the appeal presented by the bank remained pending with the Debt Recovery Appellate Tribunal, the parties have arrived at settlement and the terms of settlement were forwarded to the State Government for approval. There were minor modifications in the terms of settlement. However, the State Government for considerable period did not grant approval to the terms, as such the instant petition is presented. After issuance of directions to the respondents to take decision in the matter expeditiously, the State Government has communicated to the Director of Sugar that since the parties have amicably settled the dispute, the State Government does not have any objection

to the draft settlement and it would be open for the parties to take steps. The copy of the communication dated 10.10.2018 is annexed to the affidavit-in-reply presented on behalf of the State. An affidavit has been presented by the Principal Secretary, Co-operation, wherein it has been specifically recorded in paragraph No.7 that the consent terms are between the two co-operative societies registered under the Co-operative Societies Act and those two parties have agreed to the contents of the consent terms and it has been communicated to them by State for taking necessary action.

3. In view of the consent accorded by the State Government, there shall be no impediment for acting upon the consent terms as well as the draft consent terms placed on record of this petition. The petitioners as well as Respondent Nos.5 and 6 / liquidator of Terna SSK have presented the minutes of the order duly signed by the parties and the advocates representing the respective parties have also put their signatures as a token of identification. The petitioner as well as Respondent Nos.5 and 6 are present before the court and they have accepted the correctness of the minutes of the order. The same is taken on record and marked 'X' for the purpose of identification. It needs to be

noted that the Debt Recovery Appellate Tribunal is not presently functioning due to accidental fire and due to unavailability of the Presiding Officer and as such the proceedings pending before the Debt Recovery Appellate Tribunal, Mumbai in the shape of Appeal No.130 of 2013 also deserves to be disposed of in terms of the minutes of the order.

4. The Writ Petition thus stands disposed of in terms of minutes of the order placed on record dated 12.10.2018 and marked 'X' for the purpose of identification.

(MANGESH S. PATIL, J.)

(R.M.BORDE, J.)

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vmk/-