

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4204 OF 2018
WITH
WRIT PETITION NO. 4205 OF 2018

Shrish Vasant Lad

... Petitioner

Vs.

Bank of India & Anr.

... Respondents

Mr. Mukesh J. Pabari, Advocate for the petitioner.

Mr. C.K. Thomas i/b. C.K. Thomas & Associates, Advocate for
respondent no. 1.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 20th June, 2018.

P.C.:

Upon mentioning, taken on production board.

2. These two Writ Petitions are filed by the petitioner, who is defendant no. 4 in S.C. Suit No. 7070 of 2006. Respondent no. 1/plaintiff-bank has filed the Suit for recovery of loan amount against defendant no. 1/borrower and Defendant nos. 2and 3/guarantor and defendant no. 1 is an bank who gave title report about the flat against which the loan has been advanced. The entire evidence is recorded in February, 2017.

3. The learned counsel for the petitioner submitted that after considering the evidence on record and the admissions given by the

plaintiff/respondent no.1, the petitioner moved two Applications before the trial Court. One Application was under Order 1 Rule 10 of Code of Civil Procedure for impleading some persons to the array of party-defendant and other Application was for recasting issues especially on the point of contributory negligence. The learned counsel submitted that the petitioner/defendant no. 4 alone cannot be held responsible in the transaction of loan, as the Branch Manager, Assistant General Manager, Valuer and other bank officers, who are involved in the process of loan and scrutiny of financial transactions are necessary parties and therefore, they are to be included as party-defendants. He has further submitted that in view of the evidence of plaintiff/respondent no. 1 and considering the facts before the Court, the trial Court to recast the issues especially other issue like limitation where all the defendants are necessary parties and the contributory negligence are to be framed.

4. The learned counsel for respondent no. 1/bank opposed the Petitions. The learned counsel submitted that the entire matter is over. Respondent no. 1/bank has challenged the orders rejecting two Applications filed by it for recasting issues and impleading third party as defendants. The learned counsel submitted that these

Applications were moved in order to protract the trial when it is at his fag end.

5. Heard the submissions. Perused the orders and the impugned Applications moved by defendant no. 4/petitioner. No illegality is found in the orders passed by the learned Judge of the trial Court. No such issue of contributory negligence can be framed and the Bank officers are not necessary and proper parties in the suit. Their presence is not required to decide and adjudicate the issues effectively involved in the matter. If at all any deviation from the rules and RBI norms is found on the part of the bank officers, the bank may initiate Departmental Proceedings against them. The order dated 1st February, 2018 passed by the learned Judge of the City Civil Court, Greater Mumbai in both the Applications cannot be faulted with. Hence, the Writ Petitions are dismissed in limine. The trial Court to proceed .

(MRIDULA BHATKAR, J.)