

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 8185 OF 2017

Rosary Education Society through its trustees ... Petitioner
Vs.
The Cosmos Cooperative Bank Ltd. & Ors. ... Respondents

**WITH
CIVIL APPLICATION No. 2337 OF 2017 IN W.P. No. 8185 OF 2017**

Electra Menezes ... Applicant
Vs.
Rosary Education Society through its trustees ... Respondent

**WITH
CIVIL APPLICATION No. 541 OF 2017 IN W.P. No. 8185 OF 2017**

Rosary Education Society through its trustees ... Applicant
Vs.
Vijaykumar D. Patil,
The Cosmos Cooperative Bank Ltd. & Ors. ... Respondents

Mr. Nilesh C. Ojha a/w. Ms. Tanvi Kambli, Ms. Shweta Doshi, Ms. Shashikala Chauhan, Ms. Madhuri Gamre, Jay Shah, Ms. Reena Rana, Advocate for the petitioner/applicant.
Mr. R.A. Thorat, Senior Advocate i/b. Joel J. Carlos, Advocate for respondent No. 1.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 7th August, 2018.

P.C.:

The learned counsel Mr. Ojha for the petitioner has fairly submitted that the petitioner/plaintiff wants to withdraw Regular Civil Suit No. 953 of 2017 in view of the settled position of law under SARFAESI Act wherein he relies on the judgment of **REMO**

Software Pvt. Ltd. & Ors. vs. HBD Financial Services Ltd. & Ors.
in Writ Petition No. 35597-35601/2017 decided on 8th August, 2017 by the Single Judge of Karnataka High Court at Bangalore. The learned counsel submitted that the petitioner thus want to avail of remedy under section 17 of SARFAESI Act of 2002 before the Debt Recovery Tribunal. He further submitted that the matter before Debt Recovery Tribunal is to be made time bound and meanwhile the petitioner be protected.

2. The learned senior counsel Mr. Thorat submits to the order of this Court.

3. The submissions made by the learned counsel Mr. Ojha are accepted. The petitioner is allowed to withdraw Regular Civil Suit No. 953 of 2017 and the proceedings therein with liberty to file the application/proceedings before the Debt Recovery Tribunal. The interim relief passed herein to continue for a period of four weeks. The Debt Recovery Tribunal to dispose of the proceedings, if filed by the present petitioner before the Debt Recovery Tribunal, within three weeks.

4. The learned counsel Mr. Ojha undertakes to file the application/proceedings before the Debt Recovery Tribunal within one week. The Debt Recovery Tribunal to decide the matter on merits in accordance with law without getting influenced by the observations made by the trial Court. All the contentions of both the parties are open.

5. With this, Writ Petition is disposed of. Civil Applications are also accordingly disposed of.

(MRIDULA BHATKAR, J.)