

vks

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION (ST) NO.21401 OF 2017

Stressed Assets Stabilization Fund
(SASF),

... Petitioner.

V/s.

DSL Enterprises Private Ltd

... Respondents

Mr. Kezer A. Kharawala i/by Lex Juris, for
the Petitioner.

Mr. Mukul Taly a/w Ms.Sanchita Sridhar
i/by S.Mohammedbhai & Co., for the
Respondents.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 22nd JANUARY, 2018.

P.C. :

1] Heard learned counsel for the Petitioner and learned
counsel for respondents.

2] By this revision application filed under Section 115 of the
Code of Civil Procedure, the petitioner is challenging the order dated
29.9.2015, passed by the 4th Jt.Civil Judge S.D. Nashik, below exh.44
in Special Suit No.839 of 2011. The said application was preferred by
the petitioner for rejection of plaint under the provisions of Order VII
rule 11(d) of Code of Civil Procedure and alternatively under Order 14
Rule 2 to decide the issue of jurisdiction as preliminary issue.

3] The trial Court, while rejecting the application has observed that prima facie on the plain reading of the plaint itself, it has jurisdiction and accordingly held that the application under Order VII Rule 11(d) CPC cannot be allowed.

4] However, as regards framing of issue, the trial Court has held that the issue regarding jurisdiction needs proper adjudication and it may be decided on merits after recording testimonies of respective parties.

5] The trial Court has further held that it has already framed additional issue relating to jurisdiction in the array of issues below exh.37 and it has also directed the parties to adduce evidence thereon.

6] In such circumstances, when, as per prayer made by petitioner himself, the trial Court has framed the issue relating to jurisdiction and matter is kept for hearing on the said issue, no interference is warranted in the impugned order passed by the trial Court.

7] The Revision Application, therefore, being without any merit, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]