

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

WRIT PETITION NO.10023 OF 2018

M/s. Reshma International

... Petitioner

Vs

Sanjay Benke,

Recovery Officer & Anr.

... Respondents

...

Mr. Prashant J. Pandit with Neeta Parikh for the Petitioner.

Mr. Naved Chaudhary with Asha Bhuta I/by Bhuta & Associate
for the Respondent NO.1.

Mr. A.P.Vanarase, AGP for R.No.2.

CORAM : K. K. TATED &

SANDEEP K. SHINDE JJ.

DATE : 5 SEPTEMBERS, 2018

P.C. :

Heard learned counsel for Parties.

2 Learned counsel Mr. Pandit appearing on behalf of the
Petitioner submits that demand notice issued by the Respondent-Bank
dated 12.7.2018 under Section 156 of the Maharashtra Co-operative
Societies Act, 1960 read with Rule 107 of the Maharashtra Co-
operative Societies Rules, 1961 itself is defective. He submits that
Respondent-Bank has not calculated the amount due and payable
correctly.

3 At this stage, the learned counsel Mr. Naved Chaudhary appearing on behalf of the Respondent-Bank submits that they may be permitted to withdraw notice dated 12.7.2018 with liberty to issue a fresh for same cause of action after giving proper calculation of balance amount and interest thereon. To that effect, advocate for the Respondent-Bank has filed affidavit dated 5.9.2018 duly affirmed by Vijaykumar R. Shimpi, Special Recovery Officer, National Co-operative Bank Limited. Same is taken on record. To that effect, he has given in writing. Same is taken on record and marked 'X' for Identification.

4 At this stage, the learned counsel Mr. Pandit appearing on behalf of the Petitioner submits that in view of affidavit dated 5.9.2018 filed by the Respondent-Bank, they may be permitted to withdraw the present Writ Petition with liberty to file a fresh petition for similar cause of action if fresh demand notice is issued by the Respondent-Bank. He further submits that all contentions of the Petitioner including about limitation be kept open.

5 Hence, all contentions of both the parties are kept open.

6 Writ Petition stands dismissed as withdrawn with liberty
as prayed.

(SANDEEP K. SHINDE, J.)

(K. K. TATED, J.)

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Nilesh
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