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

CIVIL REVISION APPLICATION NO. 21 OF 2018

Sangli, Miraj & Kupwad
Municipal Corporation at Sangli ... Applicant
V/s.
The Liquidator, Vasantdada
Shetkari Sahakari Bank Limited, Sangli ... Respondent

Mr.G.H. Keluskar for the Applicant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 16th JANUARY, 2018.

P.C. :

1] Heard learned counsel for the Applicant.

2] By this Civil Revision Application, the Applicant is challenging the order dated 1st November, 2017 passed by 2nd Joint Civil Judge Senior Division, Sangli, below Exhibit-26 in Special Civil Suit No.275 of 2011.

3] The application at Exhibit-26 was filed by the present Applicant, who is the Plaintiff before the trial Court, contending *inter-alia* that the Respondent/Original Defendant has vide its written statement Exhibit-20 admitted the fact that the Applicant/Plaintiff has deposited an amount in the Defendant Bank and the Defendant has to repay the said amount. Therefore, it was requested before the trial Court, by filing this application that the suit needs to be decreed on admission in view of Order-12 Rule-6 of Civil Procedure Code.

4] However, as rightly observed by the trial Court, there is no unequivocal admission of the entire suit claim as filed by the Applicant before the trial Court in the written statement of the Defendant. Conversely, the perusal of the written statement goes to reveal that the Defendant has challenged even the maintainability of the suit and prayed for framing of preliminary issue. The Defendant has also raised the contention that the suit is bad for "non-joinder of necessary party" and further it was stated that though the amount is deposited by the Applicant with the Defendant Bank, as the Bank is already in liquidation and the Liquidator is also appointed, only as per the preferential claim decided by the liquidator, the amount would be paid. Moreover, in paragraph No.11, it is stated that the Applicant/ Plaintiff has not given the details as to how he has claimed the amount of Rs.28,63,43,893/-. It was further stated that the Applicant is not entitled to get any amount of interest or the other charges towards typing, xerox etc as claimed by the Applicant. It was further stated that only after the claims of other persons as per the preference decided by the Liquidator, are satisfied, the Defendant would be in a position to pay the amount, as claimed by the Applicant.

5] Thus, it is clear that, the Defendant has come before the Court with a fair case and fair submission, but that does not mean that the Defendant has given unequivocal admission for the decree in the suit of the Applicant/Plaintiff. As a matter of fact, the Defendant being the Liquidator, he has to disburse the amount of the bank, as per the priority claims. Being a Liquidator, he even cannot accept the claim of the Applicant or admit the same, so as to decree the same.

6] In such situation, as rightly held by the trial Court, the provisions of Order-12 Rule-6 of C.P.C. cannot be invoked for passing the decree on admission. Moreover, as observed by the trial Court, the provisions of Order-12 Rule-6 of C.P.C. are merely enabling provisions, and they do not mandate the trial Court to decree the suit on account of certain admissions made in the written statement.

7] The law is also well settled that the pleadings have to be read in entirety and a sentence made here and there can not to be picked to decree the suit on the basis of admission.

8] The impugned order, therefore, passed by the trial Court being just, legal and correct; no interference is warranted therein.

9] Civil Revision Application, therefore, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]