

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO.32816/2018

Bhrigudev Deveshwar Sharma ... Petitioner

V/s.

Jankalyan Sahakari Bank Ltd. & Anr. ... Respondents

Mr. Pulkit Sharma with Ms. Pravin V. Kamble with Sharon Patole
I/b. ANP Chambers for the Petitioner

Mr. S. S. Punde with Nilima Sarvajod I/b. Omkar Warange for
Respondent No.1.

Mrs. Ashwini Purav for Respondent No.2.

**CORAM: K.K. TATED &
N. J. JAMADAR, JJ.**

DATED : NOVEMBER 22, 2018

P.C. :

1 Heard. Adv. Punde submits that he received instructions to appear on behalf of the Respondent Bank. He undertakes to file Vakalatnama within a week. The undertaking is accepted.

2 After arguing for some time, the learned counsel for the Petitioner submits that he received instructions from his client to withdraw the Writ Petition with liberty to make appropriate Application in Appeal No.50/2015 and 51/2015 before the Maharashtra State Cooperative Appellate Tribunal, Mumbai for setting aside the abatement and for hearing on merits. He seeks some time to make such Application.

3 The learned counsel for the Petitioner submits that pursuant to the order dated 31.10.2018 passed by the learned Chief Metropolitan Magistrate, Esplanade Court, Mumbai in Case No.2888/MISC/2018 in Case No.202/SA/2016, the Respondent has taken possession of Gala No.11, Tantia Jogani Industrial Estate, Ground Floor, Sitaram Mill Compound, N.M. Joshi Marg, Mumbai - 400011. He submits that the Respondent may be restrained from taking any further steps from disposing of this property at least for four weeks from today.

4 At this stage, the learned counsel for the Respondent Bank, after taking instructions from his client, who is present in court, makes a statement that they will not take any action for disposal of the said property till 21.12.2018. The statement is accepted.

5 The learned counsel for the Petitioner given in writing seeking permission to withdraw the Writ Petition with liberty to make appropriate Application. Same is taken on record and marked "X" for identification.

6 Hence, following order is passed.

a. The Writ Petition stands disposed of as withdrawn with liberty to make an appropriate Application in Appeal No.50/2015 and 51/2015 before the Maharashtra State Cooperative Appellate Tribunal, Mumbai for setting aside the abatement and restoration of the said appeals for hearing on merits.

- b. If such Application is made, the Appellate Court is directed to decide the same on its own merits without being influenced by this order.
- c. The statement made by the learned counsel for the Respondent that they will not dispose of the suit property i.e. Gala No.11, Tania Jogani Industrial Estate, Ground Floor, Sitaram Mill Compound, N.M. Joshi Marg, Mumbai - 400011, till 21.12.2018, is accepted.
- d. The Writ Petition stands disposed of accordingly.
- e. No order as to costs.

(N. J. JAMADAR, J.)

(K. K. TATED, J.)