

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.2204 OF 2015

National Collateral Management
Services Ltd.

...Petitioner

Versus

Food Corporation of India

...Respondent

.....

Mr. Chirag Balsara with Ms Namrata Shah i/b. M/s. K. Ashar and Co.
for the Petitioner.

Mr. Nitin Gangal for the Respondent.

**CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 12th JUNE, 2018.

P.C.:-

Heard Mr. Balsara, the learned counsel for the Petitioner and Mr. Nitin Gangal, the learned counsel for the Respondent. The Petition is filed seeking writ of mandamus and/or a writ in the nature of mandamus and/or any other appropriate writ seeking direction to the Respondent to pay to the Petitioner an amount of Rs.2,07,08,833/-. In short, the Petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India for recovery of the amount.

2. It is not disputed that subsequent to filing of this Petition the Petitioner has filed a civil suit in the High Court at original side, for

recovery of the said amount from the Respondent and the same is pending. Thus, we find that the Petitioner not only has an alternative efficacious remedy but it has already availed the alternative remedy. Hence, we are not inclined to entertain his matter.

3. Furthermore, we have gone through the reply filed by the Respondent and we find that the petition involves disputed question of facts. Mr. Balsara, the learned counsel for the Petitioner relied upon the decision of the Apex Court in *ABL International Ltd. and Anr. Vs. Export Credit Guarantee Corporation of India Ltd. and Ors (2004) 3 SCC 553* to point out that even in case of disputed question of fact High Court has jurisdiction to entertain the writ petition. It is true that there is no absolute bar in entertaining the petition, which involves disputed question of fact. However, in the present case, the Petitioner has already availed the alternative remedy. We are therefore, not inclined to entertain the petition. Same is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)