

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2642 OF 2019
WITH
WRIT PETITION NO. 2645 OF 2019

MAHARASHTRA STATE CO-OPERATIVE
AGRICULTURAL & RURAL DEVELOPMENT BANK
VERSUS
DATTATRAYA GANPAT LINGAYAT AND ANOTHER

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Advocate for Petitioners : Shri Sawant Amol S.
Advocate for Respondent 1 : Shri Gaikwad Anil M.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 09, 2019

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PER COURT :-

1. The petitioner / Bank is aggrieved by the order dated 16.11.2018, which is identically passed below Exhibit 68, in both Special Darkhast Nos. 31 and 32 of 2002.

2. The petitioner had moved Exhibit 68 seeking deletion from the execution proceedings.

3. Upon hearing the learned Advocates for the respective sides, I find that Sharad Patil and Sudam Patil were the two persons appointed as Liquidators in the respondent No.2 / Societies. Since they were employees of the petitioner / Bank, the Bank was arrayed as a respondent in the Special Darkhast matters. The said issue was

brought to this Court by both the Liquidators in Writ Petition No.3828 of 2012. By order dated 30.4.2012, this Court dismissed the petition by recording that there is no impediment for adding the Liquidators in the execution proceedings and all defenses and contentions of the Liquidators can be considered while deciding the execution proceedings.

4. Pursuant thereto, the decree holders filed identical applications, both Exhibit 61, in both these execution proceedings and by identical orders, dated 7.12.2016, the applications were allowed and the addition of the petitioner / Bank was permitted. This order was not challenged.

5. It is after the above developments that the petitioner filed Exhibit 68 in both the execution proceedings seeking deletion and the executing Court concluded that addition as a respondent is sustainable though the issue as to whether the decree could be executed against the Bank, would be considered at the final stage.

6. The learned Advocate for the petitioner now informs that both the Liquidators, who were earlier the employees of the petitioner / Bank, have now been replaced and the State Government has appointed two different persons as the Liquidators. As such, Shri

Sharad Patil and Shri Madan Patil are now discharged and are relieved of their responsibility as a Liquidator.

7. I find that though the impugned orders cannot be interfered with, in view of the observations of this Court dated 30.4.2012 in Writ Petition No.3828 of 2012, the issue as to whether the decree can be executed against the petitioner / Bank in it's individual capacity or whether it could be executed against the judgment debtor society through the petitioner / Bank considering the assets mortgaged to the Bank, or any other connected issue, will have to be considered by the executing Court in utmost seriousness.

8. These two petitions are, therefore, disposed off with the observations recorded as above and the executing Court would consider the same, while deciding the execution proceedings, as regards the executability of the decree as noted above. The contentions of the litigating sides are kept open for the said purpose and the order of this Court dated 30.4.2012, as well as the earlier order of the executing Court dated 7.12.2016 and 16.11.2018, would not be an impediment.

(RAVINDRA V. GHUGE, J.)

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