IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1842 OF 2014

M/S. NEEDAL ROLLER BEARING EMPLOYEES CO-OPERATIVE SOCIETY LTD. JALNA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for the Petitioner : Shri S. M. Vibhute
AGP for Respondent Nos. 1 and 2 : Shri S. W. Munde
Advocate for Respondent Nos. 3, 4, 7 and 8 : Shri A. D. Soman
h/f. Shri D. V. Soman
Advocate for Respondent No. 5 and 6 : Shri N. R. Solunke
...
CORAM : RAVINDRA V. GHUGE, J.

DATED : 12th MARCH, 2019.
...

PER COURT :

1. By the impugned order dated 31/01/2014, the petitioner would be liable to deposit Rs. 16,00,000/- with respondent No. 3 bank. It is submitted that pursuant to an earlier order of this Court, this Court had directed the petitioner to deposit 50% of the amount. Rs. 8,00,000/- were deposited on 22/02/2012 and 07/12/2013 by two demand drafts.

2. As such, the remainder amount of Rs. 8,00,000/- as in 2014, coupled with interest would be approximately Rs.

12,00,000/-. No interim orders have yet been passed in these petitions. Considering the law laid down by the learned Division Bench of this Court (Nagpur Bench) in the matter of ***Shewalkar Developers Ltd. Nagpur Vs. Rupee Co-operative Bank Ltd. Pune, 2016 (1) Mh.L.J. 382***, I called upon the petitioner to deposit an amount of Rs. 6,00,000/-, which is about 50% of the approximate amount due from him, in the event any protective order is to be granted as an interim relief.

3. The learned Advocate for the petitioner has bluntly stated before the Court that this Court may dismiss this petition. As such, this petition is dismissed.

4. Now the learned Advocate for the petitioner tenders an apology and submits that he does not desire to press for interim relief. Since the issue of granting interim relief does not survive, RULE. The learned Advocates appearing for the respective sides waive notice on Rule.

5. Since an issue involving factory workers is at this stage, list these matters for final hearing on 18/07/2019.

6. After the above stated order was dictated in open Court, the learned Advocate for the petitioner prayed for keeping this matter tomorrow on 13/03/2019 at 2.30 p.m. so as to take instructions and make a statement. Hence, the matter would stand adjourned to 13/03/2019 under the caption of "passing orders" at 2.30 p.m.

(RAVINDRA V. GHUGE, J.)

Date :- 13/03/2019

7. The learned Advocate for the petitioner submits that the petitioner desires to withdraw this petition and approach the revisional authority under Section 154 of the MCS Act for challenging the impugned order.

8. The learned Advocate for the bank submits that as an amount of Rs. 8,00,000/- have been deposited in 2012 and 2013, the bank may be permitted to withdraw the said amount so that future interest, as per the contract agreement, at the rate of 18.5% per annum would not be charged.

9. The learned Advocate for the petitioner submits on instructions that the Bank may be allowed to withdraw the amount, subject to the result in the revision proceedings.

10. I find that the amount of Rs. 8,00,000/-, deposited by the petitioner in an earlier petition bearing No. 4849/2012 disposed off on 14/12/2013, can be withdrawn by the respondent / bank alongwith accrued interest so that future interest at the rate of 18.5% p.a. may not be levied on the unpaid amounts. The respondent Rupee Bank can withdraw the said amount through an authorized officer with due authorization documents and identified by the learned Advocate.

11. Consequentially, the revisional authority would consider this amount as being apportioned to the loan account and would include the said amount while calculating the deposit of 50% of the amount under Section 2A of Section 154 after the petitioner prefers a revision petition.

12. Needless to state, the withdrawal of the said amounts by the bank would be subject to the result of the litigation initiated by the petitioner, meaning thereby that if the

petitioner succeeds in his future proceedings and it is concluded that the petitioner was not liable to pay any amount to the bank, the said amount shall be repayable to the petitioner. Hence, respondent No. 3 bank shall enter an affidavit undertaking within two weeks from today, declaring that after the withdrawal of the amount from this Court, if the bank fails in the litigation against the petitioner and any amount is to be repaid, the said bank shall re-deposit the said amount in this Court within four weeks from the date of such order, failing which, the amount shall carry interest at the rate of 6% p.a. from the date the amount is payable till actual realization of the same.

13. In view of the above, this petition is disposed off as withdrawn. The petitioner may approach the revisional authority under Section 154. The time spent by the petitioner in this Court from 25/02/2014 till the passing of this order would be a ground for seeking condonation of delay.

(RAVINDRA V. GHUGE, J.)

shp/-