

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 309 OF 2019

GAJANAN Y. MANDREKAR.,

... Petitioner

Versus

THE GOA URBAN CO-OPERATIVE BANK
LTD. AND 3 ORS.,

... Respondents

Mr. Kaif Noorani, Advocate under Legal Aid Scheme for the
Petitioner.

Mr. R.G. Ramani, Advocate for Respondent No. 1.

Coram:- C. V. BHADANG, J.

Date:- 8th July 2019

ORAL ORDER:

The challenge in this petition is to the order dated 13.11.2017, passed by the Assistant Registrar of Co-operative Societies, rejecting an application dated 26.09.2017, for amendment of the written statement, filed by the petitioner. The order passed by the Assistant Registrar has been confirmed by the learned District Judge at Panaji in Co-operative Revision Application No. 3/2017, which has been dismissed on 15.02.2019.

2. I have heard Mr. Noorani, the learned Counsel for the petitioner and Mr. Ramani, the learned Counsel for the contesting respondent no. 1. Perused record.

3. On hearing the learned Counsel for the parties, it appears that the dispute filed by the respondent no. 1-Bank, for recovery of loan of Rs.3,47,000/- along with interest, is pending before the learned Assistant Registrar from July, 1996. The petitioner who is the respondent no. 1 (borrower in the said dispute) had filed a case under the Consumer Protection Act against the dealer M/s Narasiva Damodar Naik and Tata Engineering & Locomotive Company Ltd. (TELCO), as according to the petitioner, the truck which was purchased out of the loan amount, was defective. The District Forum allowed the application and granted compensation, which was ultimately confirmed till Supreme Court, however, with slight modification.

4. The case made out by the petitioner is that the respondent no. 1-Bank unauthorisedly wrote to TELCO, asking TELCO to release the amount, which was granted by the District Forum to the Bank and as a result of which, there is an excess amount received by the Bank.

5. The amendment sought has been rejected by the learned Assistant Registrar and District Judge and to my mind rightly so.

6. It appears that all the facts, which the petitioner wants to introduce by way of amendment are prior to July, 1996 and even assuming that strict rigor of the proviso to Order VI, Rule 17 of

CPC may not apply, the party has to show certain amount of due diligence for not bringing the amendment earlier.

7. Mr. Ramani, the learned Counsel for the respondent no. 1 has pointed out a letter dated 05.12.1997, written by the petitioner to the respondent no. 1, asking the respondent no. 1 to credit the amount received from TELCO and to release the truck from hypothecation.

8. In that view of the matter, no case for interference is made out in the impugned order. The petition is without any merit and is accordingly dismissed, with no order as to costs.

C. V. BHADANG, J.

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