

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 606 OF 2019

ARUNA SITARAM NAIK.,

... Petitioner

Versus

THE MAPUSA URBAN CO-OPERATIVE BANK
OF GOA LTD., THR. ITS GEN.
MANAGER, SALVADOR PINTO AND 2
ORS.,

... Respondents

Mr. Vishnuprasad A. Lawande, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 15th July 2019

ORAL ORDER:

Heard Mr. Lawande, the learned Counsel for the petitioner.

2. The challenge in this petition is to the order dated 15.11.2018, passed by the Executing Court, rejecting the objection to the execution, filed by the petitioner. The petitioner is the guarantor (judgment debtor no. 2), who has suffered an award of the Arbitrator in favour of the respondent no. 1. The petitioner alongwith the main debtor and co-guarantor are jointly and severally liable to pay the amount.

3. The contention raised by the learned Counsel for the petitioner is that the impugned order is unreasoned and secondly, that 52 installments were deducted from the salary of the

petitioner, who was then in government service and has since opted for voluntary retirement w.e.f. 07.10.2017. It is submitted that the permissible amount has already been deducted from the salary and hence, the petitioner is exonerated from paying the balance amount.

4. The contention, in my considered view, cannot be accepted.

There is nothing in Section 60 of CPC to show that after the permissible deduction is made, the judgment debtor is exonerated from paying the balance amount of the award/decreed. For the present, the Executing Court has directed the petitioner to file the list of assets.

5. It is true that the impugned order does not set out any reasons, whatsoever. However, on facts and in law, no different view is possible, than to reject the objection.

6. Mr. Lawande, the learned Counsel for the petitioner states that the pension payable to the petitioner is not liable to be attached as per law.

7. At present, there is no order by the Executing Court for attachment of the pension. Hence, the said contention cannot be looked into at this stage. If at all the respondent no. 1 seeks an order for attachment of the pension, it would be open to the

petitioner to raise all such contentions, as may be available in law and on facts and the Executing Court shall consider the same on its own merits.

Subject to this, no case for interference with the impugned order, directing the petitioner to file the list of assets, is made out. The petition is dismissed.

C. V. BHADANG, J.

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