

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5042 OF 1994

Karmaveer Kakasaheb Wagh

S.S.K. Ltd. Nashik

... **Petitioner**

V/s.

M/s.Shantilal Khushalchand, Nashik

... **Respondent**

Mr.P.N. Joshi for Petitioner.

CORAM : A.S. GADKARI, J.

DATE : 6th June 2019.

P.C. :

1] By the present petition under Article 227 of the Constitution of India, the petitioner has questioned the correctness of the concurrent findings recorded by both the Court's below.

2] Heard Mr.Joshi, the learned counsel for the petitioner. The respondents are absent despite service.

3] It is the case of the petitioner that, the respondent had agreed to purchase 500 bags of sugar from 'open sale quota' of the petitioner-society, however, failed to lift 300 bags of sugar. A dispute bearing No. 106 of 2003 was therefore filed for recovery of damages

before the Co-operative Court, Nashik Division, Nashik.

The trial Court while dismissing the suit/dispute preferred by the petitioner has held that, a conclusive contract between the parties has not been proved by the petitioner-society. The Appellate Court by its Judgment and Order dated 25/05/1994 has dismissed the appeal by confirming the judgment and order passed by the trial Court.

4] A perusal of the record would clearly indicate that, the petitioner has failed to prove a conclusive contract between the parties to substantiate its contention for breach of contract. The petitioner has also failed to prove that the respondent was under obligation to lift the balance 300 bags of sugar and by not lifting the said 300 bags of sugar, the petitioner was entitled to claim damages.

5] As noted earlier, there is a concurrent finding recorded by both the Court's below. This Court finds that there is no perversity or error committed by both the Court's below either in law or on facts while passing the impugned orders.

6] The Petition being dehors of merits, is accordingly dismissed.

[A.S. GADKARI, J.]