

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11381 OF 2014

Punjab & Sind Bank	..Petitioner
Versus	
State Bank of India & Ors.	..Respondents

Mr. V. V. Chandavale, Advocate for the Petitioner.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 6th DECEMBER, 2019

P.C.

- 1] Heard learned counsel for the Petitioner.
- 2] The Petitioner was impleaded as Defendant No.5 in an Original Application filed by the State Bank of India. The Original Application registered as OA No.521-P/2001 when transferred to Pune was originally filed before DRT, Mumbai where the Petitioner was served and appeared through an advocate as recorded in the proceedings dated 18.12.2000.
- 3] Thereafter on an issue of jurisdiction, the Original Application filed at Mumbai was transferred to DRT, Pune and as per order dated 06.01.2003 service upon the Petitioner was directed to be accorded by Regd. Post AD. The Petitioner was served through Regd. Post AD and did not appear resulting in the Petitioner suffering an ex-
BGP.

parte decree. The Petitioner filed an application seeking recall of the ex-parte decree and we find that application was registered as Misc. Application No.28/2007. It is at pages 61 to 73 of the writ paper-book.

4] All and sundry facts on merits of the decree have been pleaded and qua the issue whether Petitioner was rightly or wrongly proceeded against ex-parte in spite of being served firstly by DRT, Mumbai and thereafter on transfer to Pune, DRT, Pune by means of Regd. Post AD it was pleaded that there is no proper service to applicant in the matter of O.A. as Defendant No.5 is having its office at Delhi and the address as provided by Opponent No.1 was not sufficient to conclude the service.

5] The Petitioner was served at its Green Park Extension Branch at New Delhi.

6] The learned DRT dismissed the application vide order dated 12.06.2008 noting that the Petitioner was duly served. The reasoning is that the Petitioner was first served by DRT, Mumbai and had appeared before it. The order transferring the Original Application from Mumbai to Pune was in the knowledge of the Petitioner. Since Petitioner did not appear before DRT, Pune, the Petitioner was served by Regd. Post AD. The Petitioner chose not to appear.

(7)-WP-11381-14.doc.

7] The Appeal filed by the Petitioner has been dismissed vide impugned order dated 14.08.2014. The order briefly notes the conclusions from afore-noted facts.

8] Learned counsel for the Petitioner keeps on harping that it is a case of fraud. The issue is whether the Petitioner was rightly proceeded against ex-parte or not and whether it is a case of fraud or not.

9] Thus, we find no merits in the Petition, which is dismissed.

**Balaji G.
Panchal**

Digitally signed by
Balaji G. Panchal
Date: 2019.12.06
17:48:23 +0530

SMT. BHARATI DANGRE, J

CHIEF JUSTICE