IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.1161 OF 2014

M/s STI India Limited ... Petitioner
Versus
Saraswat Co-operative Bank Ltd.
And Others ... Respondents

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Mr. Chirag Mody a/w Mr. Jayesh Mestry and Mr. Akshat Shah I/b RMG Law Associates for the Petitioner.
Mr Bhupesh V. Samant for Respondent No.1.

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CORAM : S.C. GUPTE, J.

DATE : 18 FEBRUARY 2019

P. C. :

. Heard learned Counsel for the parties.

2 This arbitration petition is filed by STI India Limited, who is neither a borrower nor guarantor of the first Respondent bank, but who was impleaded as a party to the arbitration proceedings between the bank and its borrower, Steel Tubes India Limited under Section 84 of the Multi-State Co-operative Societies Act, 2002 ("Act"), on the basis that the property, which formed the security of the first Respondent bank in respect of the liability of its borrower, Steel Tubes of India Limited, and directors of Steel Tubes of India Limited as guarantors, was owned by the Petitioner, STI India Limited.

3 The arbitrator came to a categorical finding in his impugned award

that STI India Limited was neither a principal debtor nor a guarantor of the first Respondent bank. The arbitrator also held that the particular property was given as a security by the Petitioner herein for securing its own loan and for another loan of Steel Tubes of India Ltd, but that both these loans had since been repaid. Having found so, there was really no case for passing any order in respect of the property of the Petitioner. The arbitrator appears to have relied on an undertaking given by a director of the Petitioner, who was a director also of Steel Tubes of India Limited, for holding the property as a security and agreeing not to deal with the property until the loan was repaid. Evidently, this was the other loan of Steel Tubes of India Limited mentioned above, for which the property was placed as a security by the Petitioner. On the Petitioner's own showing, this loan has been repaid. Just because the first Respondent bank happens to hold on to the title deeds of the property despite due repayment of the two loans, i.e. loan of the Petitioner and the other loan of Steel Tubes of India Ltd, there is no way the first Respondent bank could exercise any lien over those deeds. The deeds were admittedly placed with it by the Petitioner as a security for the loans, which have admittedly been repaid; they could not be exercised any lien on for some other loan granted by the first Respondent bank to Steel Tubes of India Limited at a subsequent point of time. There is absolutely no warrant in the arbitrator restraining the Petitioner, in the premises, from dealing with the property.

4 Learned Counsel for the first Respondent bank submits that the arbitrator has in his award observed that there was no evidence as to whether Steel Tubes of India Ltd or the Petitioner-STI India Limited or both were owners of the property. Even if it is so, that is no reason to pass any

restraint order against the Petitioner in respect of the property on the basis of putative ownership of Steel Tubes of India Limited. At the most, Steel Tubes of India Ltd could be restrained from dealing with the property on the basis of its claim of ownership.

5 On the arbitrator's own showing, so far as the Petitioner is concerned, there can be no restraint on it for dealing with its own property. That would clearly be not only an impossible view, but a view which the arbitrator has no jurisdiction to take, since the Petitioner does not fulfill the character mentioned in Section 84 of the Act and no statutory arbitration accordingly lies against it. The impugned award of the learned arbitrator, thus, needs to be set aside to the extent it directs a restraint order against the Petitioner herein in respect of the property referred to in clause (c) of the operative part of the award dated 8 May 2014. The Arbitration Petition is disposed of in the above terms.

(S.C. GUPTE, J.)