

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

WRIT PETITION (L) NO.3196 OF 2019

M/s.Kdelite Foods Limited & Ors.

... Petitioners

Vs

Bank of Baroda & Ors.

... Respondents

Mr.C.B. Nikte for the Petitioner

Mr.Durgaprasad Halwai i/b Singhi & Co. for Respondent Nos.1 & 2

Mr.R.P. Ojha for Resp. No.4

**CORAM: S.C. DHARMADHIKARI &
R.I. CHAGLA, JJ.**

DATED: DECEMBER 17, 2019

P.C.:

1. On 21.11.2019, we had passed the following order on this

Writ Petition:

“1. Respondent Nos.1 and 2 are duly served.

2. The advocate appearing for respondent Nos.1 and 2 seeks time to take instructions, particularly on the point covered by the two decision, one rendered by this Court recently and that of the Hon'ble Supreme Court of India in the case of *State Bank of India Vs.Jah Developers Private Limited & others* [(2019) 6 SCC 787].

3. At the request of the advocate appearing for respondent Nos.1 and 2, who accepts notice and waives service, we post this matter on 5th December 2019. It shall be listed on the “Supplementary Board”.

2. After that order, we have been informed today by the advocate appearing for respondent Nos.1 and 2 that the judgment and order of this Court dated 16.10.2019 in **Writ Petition (Lodging) No.1630 of 2019** (*Kailash Shahra vs. IDBI Bank Limited*) would cover the issues and answer the controversy raised in this petition.

3. This judgement and the judgment of the Hon'ble Supreme Court delivered in the case of *State Bank of India Vs. Jah Developers Private Limited & others* reported in **(2019) 6 SCC 787**, would bind the respondent Nos.1 and 2.

4. Respondent Nos.1 and 2 have instructed their Counsel that consistent with this judgment and binding directions therein, respondent Nos.1 and 2 will commence the process to declare the petitioners as willful defaulters. That process will be commenced and concluded strictly in accordance with law uninfluenced by any earlier decision or order.

5. Needless, therefore, to clarify that the bank accepts that the communication impugned in this petition, copy of which is at page 656 of the paperbook, would not survive and stands withdrawn/set

aside.

6. In view of setting aside of this communication dated 20.5.2019, all that survives is the show-cause notice dated 23.10.2018 and response thereto received on 29.10.2018.

7. Now based on that, the proceedings under the RBI Master Circular would be initiated and concluded. The matter will have to be decided on the touchstone of the law laid down in the judgements referred to above.

8. In view of the above, this Writ Petition stands disposed of with a clarification that this Court has not examined the rival contentions of the parties. All the contentions are kept open.

(R.I. CHAGLA, J.)

(S.C. DHARMADHIKARI, J.)