

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

APPEAL AGAINST ORDER NO.10 OF 2019
WITH
CIVIL APPLICATION (CAA) NO.10 OF 2019

National Collateral Management Services Ltd. Thr. its Authorised Officer Diwakar
Kumar

-vs-

Ramanna Rao Bolla and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. A. Naik, Advocate for appellant.
Shri S. G. Deshpande, Advocate for respondent No.2.
Shri Pritesh Bansod, Advocate for respondent No.5.

CORAM : A.S.CHANDURKAR, J.
DATE : February 12, 2019

An order passed below Exhibit-40 in Spl. Civil Suit No.933/2018 rejecting the prayer for grant of ad interim relief so as to direct the proposed defendant No.5 to deposit the auction sale proceeds in Court is under challenge in the present appeal.

2. After hearing the learned counsel for the parties on 11/02/2019, the respondent No.5 was granted time to file an affidavit to indicate as to which paddy stock had been auctioned on 07/02/2019. Accordingly today an affidavit has been filed by the authorised signatory of respondent No.5-Bank in which it has been stated that the paddy that was auctioned on 07/02/2019 was not relating to the suit property/paddy with which the

plaintiff is concerned. The said statement made on oath is accepted and taken on record.

3. It is seen that various applications including an application under Section 8 of the Arbitration and Conciliation Act, 1996 and an application under provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 are pending before the trial Court. In the light of the statements made in paragraph 2 of the affidavit dated 12/02/2019, the interests of justice would be served by passing the following order without entering into the merits of the respective contentions in view of the fact that the aforesaid applications are still pending :

(i) The application for grant of temporary injunction, application filed under Section 8 of the Arbitration and Conciliation Act, 1996 as well as the application filed under provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 shall be first taken up for consideration together.

(ii) The trial Court shall endeavor to decide these applications expeditiously and preferably by 20/02/2019 on their own merits and in accordance with law.

(iii) Till the application for grant of temporary injunction is decided, without prejudice to the rights of the parties, the amount received by the respondent

No.5-Bank as mentioned in paragraph 1 of the affidavit shall be retained by the Bank and the said respondent No.5 shall abide by the orders passed on the aforesaid application. This direction is issued without prejudice to the rights of the parties and the same shall not influence the trial Court.

(iv) The matter before the trial Court is preponed in view of the aforesaid order and the parties shall appear before the trial Court on 13/02/2019 at 11 am.

(v) The plaintiff shall serve the copy of this order on the counsel for the respondent No.1 before the trial Court.

Appeal against Order and Civil Application are disposed of keeping respective contentions of parties open.

Authenticated copy of this order be supplied to the learned counsel for the parties.

JUDGE