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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2999/2019**

HEM CHAND GUPTA AND ORS.

..... Petitioner

Through: Mr. Sumit Bansal with Mr. Prateek
Kohli and Ms. Vishnushree Dalmia,
Advts.

versus

BOMBAY MERCANTILE CO-OPERATIVE BANK AND ANR.

..... Respondent

Through: Mr. Mohinder Singh, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

27.03.2019

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C.M. No. 13881/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 2999/2019 & C.M. No. 13880/2019

Issue notice. Mr. Mohinder Singh, Adv. accepts notice on behalf of respondent No.1 Bank, which is the contesting respondent.

After some arguments, Mr. Bansal states on instructions that the petitioner does not press the writ petition, except to the extent that the learned DRAT – while passing the impugned order, has made observations on the merits of the dispute. Mr. Bansal submits that since the learned DRAT was dealing with the application to seek restoration of the appeal, the

observations on the merits of the disputes were not called for and should not prejudice the case of the petitioner at the hearing of the appeal itself. Counsel for the respondent Bank fairly does not oppose this submission of the petitioner. Consequently, we direct that the observations made by the learned DRAT on the merits of the dispute in paragraph 5 of the impugned order should not come in the way of the petitioner at the hearing of the appeal, and the learned DRAT shall consider the matter without being influenced by the said observations.

Mr. Bansal also points out that since the appeal was dismissed as withdrawn on 08.02.2018, the petitioner had not filed reply to the appeal.

The petitioner is permitted to file reply to the appeal within 4 weeks and the rejoinder, thereto, may be filed by the Bank within two weeks thereafter.

The parties shall appear before the learned DRAT on the date fixed i.e. 01.04.2019.

Dismissed as withdrawn.

VIPIN SANGHI, J

REKHA PALLI, J

MARCH 27, 2019

N.Khanna