

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13583 OF 2016

Abhyudaya Co-operative Bank Ltd.

..Petitioner

Versus

State of Maharashtra & Ors.

..Respondents

Mr. Madhur Rai a/w Mr. Sachin Kanse i/by PRS Legal, Advocates for the Petitioner.

Mr. Y. S. Khochare, AGP for Respondent No.1 – State.

Ms. Shyamali Gadre a/w Ms. Tanvi Doshi, P. Lokegaonkar i/by Little & Co., Advocates for Respondent No.2.

Mr. Anil D'Souza, Advocate for Respondent No.3.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.

DATE : 23rd JANUARY, 2020

P.C.

1] The tripartite agreement between the Petitioner, MIDC and Ambernath MIDC CETP Company Pvt. Ltd. recognized that the Petitioner was advancing a credit to Ambernath MIDC CETP Company Pvt. Ltd. and that the land which was mortgaged to the Petitioner had been demised by MIDC. Thus, covenant was that if Ambernath MIDC CETP Company Pvt. Ltd. is in breach of the terms of the lease and MIDC proposes to determine the lease, MIDC would issue a cure notice to not only Ambernath MIDC CETP Company Pvt. Ltd. but even the Petitioner granting six months time to rectify the breaches before re-entry was effected.

2] Relevance of said clause is to protect the interest of the Petitioner which could have then called up Ambernath MIDC CETP Company Pvt. Ltd. to substitute the security.

3] Concededly, without issuing the cure notice MIDC determined the lease in favour of Ambernath MIDC CETP Company Pvt. Ltd. vide order dated 15.03.2016.

4] Thus, we dispose of the Petition declaring the order dated 15.03.2016 determining the lease to be void, requiring MIDC to comply with the term of the covenant to which we have referred to herein-above being covenant 2(d) of the tripartite agreement dated 18.01.2012.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE

Balaji
G.
Panchal

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by Balaji G.
Panchal
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