IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4814 OF 2021

Punjab National Bank, Surya Nagar Br., Nagpur acting through its Sr. Br. Manager Sh. Arvind s/o Narayan Mohadikar
Vs.
Jayshree w/o Manohar Nikose and another

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Mr. A. T. Purohit, Advocate for petitioner.
Mr. V. A. Dhabe, Advocate for respondent No.2.

CORAM : AVINASH G. GHAROTE, J.
DATE : 16/12/2021

Heard Mr. Purohit, learned counsel for the petitioner and Mr. Dhabe, learned counsel for the respondent No.2.

2. The grievance is regarding the orders dated 21.06.2019 below Exh.16, dated 07.12.2019 below Exh.1 and dated 28.10.2020 below Exh.28, passed by the learned Family Court, Nagpur. The grievance is that the petitioner-bank wherein the respondent No.2 was employed and has retired on 30.06.2019, amounts were outstanding on account of financial facilities availed by respondent No.2, on account of which, an application under Order I Rule 10 of CPC came to be filed, which is pending decision. The grievance is raised that the above said orders, deprived the petitioner – Bank of its entitlement to recover the amounts due and payable by

the respondent No.2, and therefore, these ought to be quashed and set aside.

3. It is material to note that the aforesaid impugned orders have been passed by the learned Family Court, in execution proceedings bearing RD No. 15 of 2018 and RD No. 58 of 2018 against the respondent No.2 in which, the order below Exh.1 dated 21.06.2019 and 07.12.2019 has been partly modified by the order dated 28.10.2020, by permitting the petitioner to release the pensionery benefits of the respondent No.2 and attaching the Provident Fund, Gratuity and Leave encashment of Rs.16,71,000/- and odd. The petitioner – Bank claims an amount of Rs.5,21,034.26/- which includes interest calculated up to Rs.31,719/-. No doubt that the claim made by the Bank will have to be adjudicated by the learned Family Court by deciding Exh.21, which the learned Family Court is requested to do at the earliest, however, considering that the impugned orders dated 21.06.2019 and 07.12.2019 which have merged into the order dated 28.10.2020 merely direct an attachment in operative part – 1, I do not see any reason to interfere, as it will be permissible for the petitioner – Bank, to raise its grievance against the respondent No.2 in the aforesaid RD proceedings.

4. The petition is accordingly dismissed, in view of the above.

5. All grounds which are raised in the petition shall be open and permissible to be raised before the learned Family Court who shall decide the application for intervention within a period of 15 days from today.

JUDGE

Sarkate

Digitally signed byANANT R SARKATE
Signing Date:18.12.2021 15:06