

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**929 APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY NO.49 OF
2019**

**LEELABAI W/O. LAXMAN AUTADE
VERSUS
DHAWALKRANTI GRAMIN BIGARSHETI SAHAKARI
PATSANSTHA MARYADIT PAREWADI AND OTHERS**

Mr. R. A. Tambe, Advocate for the appellant
Mr. Tushar Shinde, Advocate h/f Mr. C. K. Shinde, Advocate for
the respondent Nos. 1 to 3

CORAM : KISHORE C. SANT, J.

DATE : 18th October, 2022

P. C.

1. Heard both the sides.
2. Leave granted to file an appeal. Heard appeal finally
by consent of the parties looking to the nature of appeal.
3. The order dated 10-11-2017 is impugned in the
appeal, by which the learned JMFC, Newasa has dismissed the
complaint in the special drive.

4. Learned advocate for the appellant submits that case was filed under Section 138 initially in the court at Pathardi. However, by order dated 10-11-2016, same came to be transferred to the court of JMFC, Newasa in view of the judgment of the Hon'ble Apex Court. Therefore, she has no knowledge of the dates in the court at Newasa. Thus, it is submissions that looking to the nature of the proceeding the applicant need not suffer and prays for setting aside the impugned order and for restoration of the complaint to its own position.

5. Learned advocate for the respondent vehemently opposed the prayer. He points out from the order dated 10-11-2016, passed by the learned JMFC, Pathardi that it was the complainant who was directed to take the papers of the complaint back and to present in the court of Newasa. Thus, she cannot claim ignorance of pendency of the proceeding in the court at Newasa and he opposed the prayer. He fairly submits that his client is ready to deposit the cheque amount. However,

learned advocate for the appellant states on instructions that his client is not ready for settlement.

6. Considering the above position, this court feels it necessary to give one chance to the appellant-original complainant to prosecute her case at Newasa. Therefore, the following order:

ORDER

- a] Appeal is allowed.
- b] Impugned order dated 10-11-2017, passed by the learned JMFC (Court No.1), Newasa is quashed and set aside.
- c] The SCC No. 752 of 2016 is restored to its own position.
- d] The learned JMFC, Newasa to endeavour to complete the proceeding and decide the compliant as

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early as possible preferably within a period of six weeks.

e] Parties shall appear before the court on 18-11-2022.

[KISHORE C. SANT, J.]

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