

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4371 OF 2021
IN
WRIT PETITION NO.709 OF 2021

CSB Bank Limited : Applicant/Petitioner
versus
Niumec Engineering Corporation, Through
its Proprietor Mr. Bajaj Singh Mander & Ors. : Respondents

Mr. Pankaj Vijayan a/w Ms. Tejashree Chaudhari i/by Intralegal for
Applicant/Petitioner.
Ms. Neha Bhide, 'B' Panel Counsel for Respondent-State.

CORAM : K. R. SHRIRAM &
A. S. DOCTOR, JJ.

DATE : 28th September 2022

PC.

1 On 20th July 2022 the following order came to be passed :-

"PC.:-

1. Applicant, a secured creditor, was unable to sell the property that was mortgaged to applicant because of the attachment order passed by respondent No.2, the department of Sales Tax. Mr. Vijayan states that pursuant to an order passed by this court, applicant was permitted to dispose the property but was directed to keep the sale proceeds in fixed deposit. Mr.Vijayan states that applicant should be permitted to liquidate the fixed deposit and utilize the amount. Mr.Vijayan states, to a query posed by the court, the applicant will bring the money into the court if so directed together with interest at any rate this court would direct. When the court informed Mr.Vijayan that applicant will have to bring the money, if so directed, together with interest thereon at 15% p.a., Mr.Vijayan was even ready for that.

2. *Respondents are not present in court. The cause list does not show the name of anyone appearing for respondents.*

3. *The AGP concerned is directed to remain present in court on 27th July, 2022.*

4. *Stand over to 27th July, 2022.”*

2 Learned AGP Ms. Bhide does not dispute the fact that Interim Application has been served, but at the same time states, she is yet to receive instructions in the matter.

3 We are not inclined to wait any longer for Respondents to wake up and give instructions to Ms. Bhide.

4 Prayer clause (a) of the Interim Application reads as under :-

“a) Permit the Applicant to appropriate the fixed deposit of Rs.2,33,04,600/- lying with the Applicant towards the outstanding dues of the Respondent No.1 on the undertaking that in the event the writ petition is dismissed, the Applicant shall deposit the amount before the Registry, High Court of Bombay.”

5 In view of the statement made by Mr. Vijayan, as recorded in order dated 20th July 2022, we are inclined to allow the Interim Application. The Applicant shall bring money into court together with interest thereon at 15 percent per annum, as and when directed by this

Court. Mr. Vijayan is agreeable, and this statement of Mr. Vijayanan is accepted as an undertaking on behalf of Bank and its Board of Directors.

6 Interim Application accordingly stands disposed.

(A. S. DOCTOR, J.)

(K. R. SHRIRAM, J.)