

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

941 REVIEW APPLICATION (CIVIL) NO.91 OF 2023
IN WRIT PETITION NO.10848 OF 2022

DINESH KUMAR RAMCHANDRA MODI PROP. M/S SAI
SALES CORPORATION AND OTHERS

VERSUS

AHMEDNAGAR URBAN CO-OPERATIVE BANK SARWARTH
THROUGH IS CHIEF EXECUTIVE OFFICER AND ANOTHER

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Advocate for the applicants : Mr.N.P.Bangar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 09.03.2023

P.C. :

1] By the present Review Application, the review applicants take an exception to the para no.4 of the judgment and order dated 19.10.2022 passed by this Court in Writ Petition No.10848 of 2022.

2] The petitioner no.1 is running a business of sale of explosives which are used in excavation / blasting for construction of road and other infrastructure. The petitioners have taken loan from the respondent no.1 Bank.

Thereafter, the respondent no.1 – Bank initiated recovery proceedings against the petitioners by filing dispute before the Co-operative Court. The petitioners appeared before the Co-operative Court and filed an application under Order VII Rule 10 and 11 of Civil Procedure Code. On 16.11.2018, the learned Cooperative Court rejected the said application. Being aggrieved by the said order, the petitioners filed Writ Petition No.4035/2019 before this Court and the same was withdrawn.

3] Thereafter, The petitioners moved an application under Order 14 Rule 2 of the CPC for framing of issues in respect of jurisdiction before the Co-operative Court. By order dated 02.09.2022, the Co-operative Court rejected the said application on the ground that earlier application filed under Order VII Rule 10 of CPC was turned down and recasting of the issue would amount to review of the said order. Being aggrieved by the said order, the petitioners filed Writ Petition No.10848 of 2022 and the said Writ Petition was also dismissed by order dated

19.10.2022. Against the said order, the present Review application is filed.

4] The learned counsel for the review applicants submits that an application under Order VII Rule 11 of the Civil Procedure Code was rejected by the Co-operative Court and this Court had not entertained writ petition on the ground that the petitioner accepted position that the Cooperative Court, Ahmednagar has jurisdiction to entertain the suit and did not immediately file application for framing preliminary issue after rejection of his application under Order VII Rule 11 on 16.11.2018. This Court further held that even after withdrawal of the writ petition on 13.02.2020 the petitioner awaited for two years and 5 months and thereafter filed application only to stall the final hearing of the suit. This Court is not exercising appellate powers while deciding Review Application. This Court has already dismissed the Writ Petition by considering the submission of the petitioners on merits.

5] No case is made out by the present review applicants to entertain the review application. The present review application is dismissed accordingly.

6] The petitioners may raise their grievances before appropriate authority.

[ARUN R. PEDNEKER]
JUDGE

DDC