

Santosh

**IN THE HIGH COURT OF BOMBAY AT GOA
SECOND APPEAL NO. 54 OF 2022**

THE GOA STATE CO-OPERATIVE
BANK LTD., REP. BY ITS MANAGING
DIRECTOR, ANANT MAHADEV
CHODANKAR Appellant.

Versus

DELTA ASSOCIATES, REP. BY ITS
PARTNER, MANGESH BHIKU
KUNDAIKAR Respondent.

Mr Gaurang Panandiker, Advocate for the Appellant.

Mr Pavithran A.V., Advocate for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 17th March 2023

P.C. :

1. Heard Mr Panandiker for the Appellant and Mr Pavithran for the Respondent.
2. Mr Panandiker, relying upon the Judgment and Order in ***Saba Chemicals and ors vs. Siddhartha Bhattacharya and anr,*** in Arbitration Petition No.396/2013 dated 8th May 2015, submits that the Civil Court had no jurisdiction to entertain the suit and the parties should have been relegated to arbitration given the specific bar under Section 117(3) of the Multi State Co-operative Societies Act.

3. Mr Panandiker urges the following substantial question of law :

Whether the Civil Court has the jurisdiction to entertain a suit at the instance of a borrower in view of specific bar provided under Section 117(3) of the Multi State Co-operative Societies Act?

4. From the perusal of the Judgment and Decrees of the Trial Court and the First Appellate Court, it is evident that the issue which is now sought to be raised was never raised before the two Courts. This issue nevertheless is a mixed question of law and fact. As such, the substantial question of law that is now proposed to be formulated cannot be said to be involved in this appeal.

5. Accordingly, this Appeal is dismissed as not involving any substantial question of law. However, it is clarified that if such an issue is raised by the Appellant-Bank in any suit, then, the same will have to be considered in accordance with law.

6. The Appeal is, accordingly, dismissed with the above observations. There shall be no orders for costs.

M. S. SONAK, J.