

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1545 OF 2023

Dattatray Suresh Parande

.. Petitioner

Versus

State of Maharashtra and Ors.

.. Respondents

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- Mr. Rahul S. Kadam, Advocate for Petitioner
- Mr. S.S. Kanetkar, Advocate for Respondent No.4
- Ms. V. S. Nimbalkar, AGP for State – Respondent Nos.1 to 3
- Mr. Rahul Parande, Manager of Respondent No.4 present

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 22, 2023

P.C.:

1. Heard Mr. Kadam, learned Advocate for Petitioner; Ms. Nimbalkar, learned AGP for Respondent Nos.1 to 3 – State; Mr. Kanetkar, learned Advocate for Respondent No.4 and Mr. Parande, Manager of Respondent No.4.

2. On 20.02.2023, this Court passed the following order:-

“1.

2.

3. Respondent No.4 – Bank has filed a substantive Affidavit dated 13.02.2023, inter alia, placing on record the exact amount of outstanding in respect of the recovery certificate as on 09.02.2023. The statement of outstanding amount is placed at Exhibit-3 page No.73 to the Affidavit-in-Reply of the Bank.

4. Mr. Kadam has raised a preliminary objections, inter alia, with respect to inclusion of legal charges as also certain amount of penal interest as appearing in the said statement. He would submit that in that view of the matter, the amount is in excess by Rs.2,37,000/- approximately, if the aforementioned heads are considered as per the statement of Respondent No.4 – Bank.

However, Mr. Kadam has obtained instructions from the Petitioner i.e. Mr. Dattatray Suresh Parande who is present in the Court today and urged the Court to consider the passing of order that the Petitioner is agreeable to pay the outstanding amount of Rs.18,26,948/- in two tranches namely an amount of Rs.11,00,000/- which shall be deposited with Respondent No.4 – Bank within a period of one week from today and the balance amount of Rs.7,26,948/- which shall be deposited within a period of four months from today, subject to the said amount being final amount payable by Petitioner without any further interest.

5. Despite the objections raised by Mr. Kadam, the suggestion made by him not only appears to be thoughtful but would also put an end to the lis between the parties.

6. In view of the above proposal, Mr. Kanetkar, learned Advocate for Respondent No.4 – Bank seeks time to obtain instructions and submit to the Court.

7. At the request of Mr. Kadam, it is clarified that the afore mentioned proposal is without prejudice to the rights of the Petitioner and needless to state that no further interest shall be leviable on the total outstanding amount which is stated herein above.

8. Mr. Kadam would submit that one bank account of the Petitioner in Union of India, Vishrant wadi Branch, Pune which has been frozen will have to be released in that event.

9. At this juncture, Mr. Kanetkar would submit that he would obtain instructions in that respect also and inform the Court accordingly.

*10. Stand over to **22nd February, 2023**. To be placed under the caption “First on Board”.”*

3. Mr. Kanetkar, at the outset in compliance of the directions contained in paragraph Nos.8 and 9 would submit that he has obtained instructions from Respondent No.4 – Credit Society and they are agreeable to receive the first tranche of payment of Rs.11,00,000/- as directed by this Court in paragraph No.4 of the above order. However, the Bank is not agreeable to accept the balance amount of Rs.7,26,948/- as directed by this Court within the prescribed time

without interest. He has therefore urged the Court that in terms of the byelaws of Respondent No.4 – Credit Society, in the event if any interest is not charged on receipt of payment the Society would be faced with audit query.

4. Be that as it may, while recording the submissions and the findings in paragraph No.4 of the above order this Court has noted the objections raised by the Petitioner in respect of an amount of Rs.2,37,000/- in the computation and calculation given by Respondent No.4 – Credit Society which was strongly objected to by Mr. Kadam. Mr. Kadam after taking me through record would submit that the Petitioner has paid substantial amount namely an amount in excess of Rs.16,00,000/- during the pendency of Revisions proceedings and pursuant to above order the Petitioner would now be depositing in excess of Rs.18,00,000/-. The Petitioner had also paid certain other amounts prior to the filing of the Revision proceedings also.

5. In view of the above, the objection raised by Mr. Kanetkar and the facts and circumstances of the present case, I am not inclined to accept the said objections and Respondent No.4 – Credit Society is directed to accept the amount of Rs.18,26,948/- in full and final settlement of the entire balance outstanding amount as directed by this Court in paragraph No.4 of the above order.

6. The Petitioner shall file an appropriate undertaking to the effect that they shall honour deposit of two tranches of payment as directed by this Court within the prescribed timeframe and no extension shall be granted by this Court under any reason whatsoever.

7. It is also directed that the Bank Account No.520101362321456 of the Petitioner in Union Bank of India, Vishrantwadi Branch, Pune as referred to paragraph No.8 of the above order shall be defrozen by the concerned Bank and the Respondent No.4 – Credit Society shall withdraw its letter addressed to the said Bank for the purpose of freezing the same.

8. In the event of any default on the part of the Petitioner, the entire liability shall be due and payable alongwith penal interest.

9. At the joint request of Mr. Kadam and Mr. Kanetkar, the first tranche of payment of Rs.11,00,000/- shall be paid by the Petitioner within a period of two weeks from today.

10. With the above directions, Writ Petition stands disposed.

[MILIND N. JADHAV, J.]

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by SONALI
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