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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 744 OF 2017

Janlaxmi Co-Op. Bank Ltd.

... Petitioner

V/s.

Ninaidevi Sahakari Sakhar Karkhana Ltd. & Ors. ... Respondents

Mr. Dhanyakumar R. Talankar for the Petitioner

Mr. Ashutosh Kulkarni for Respondent No.1

Ms. R.A. Salunkhe, AGP for Respondent Nos. 3 and 4

***CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.***

DATE : 30 OCTOBER 2023

P.C. :-

Heard the learned Counsel for the parties. The
Petitioner has sought the following prayers :-

“(a) This Hon’ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India and call for records relating to the aforesaid consortium loans kept by the Lead Bank (Respondent No.2) for the Loans given by members of Consortium including loans given by the Petitioner, and after going through the same,

direct the Respondent Nos. 3 and 4 to honour the commitment contained in the Government Resolutions Govt. Guarantee issued and repay the aforesaid loan amounts payable by the Respondent No.1 to the Petitioner forthwith or within such time as this Hon'ble Court may deem fit and proper."

2. On 5 October 2018 none had appeared for the Petitioner, Thereafter, on various dates none had appeared. On 3 October 2023, we passed the following order :-

"The circulation is granted on a praecipe filed by the Petitioner and yet none appears for the Petitioner. The petition filed in the year 2016 is pending. This petition was twice dismissed for default and restored.

2 *It appears from the pleadings in the Petition that Respondent No.1 Members of whom the Petitioner has stated to have given loan, is in financial difficulty and directions are sought to Respondent No.2 and the State Authorities in respect of the same. Learned counsel for Respondent No.1 seeks time to take instructions, of the position as on today as to whether Respondent No.1 is under liquidation or any agency is appointed to look after the assets and finances of Respondent No.1.*

3 *Stand over to 30 October 2023.*

4 *If an Agency/Officer is appointed to look after the finances of Respondent No.1, the Petitioner can make a representation to said Agency/Officer for the repayment of loan, payable by Respondent No.1 to the Petitioner."*

3. The learned Counsel appears for the Respondent No.1. The learned Counsel states that the liquidation process is over and the property is now taken over by the purchaser as well. The learned Counsel for the Petitioner states that this may be so but the guarantee given by the State Government as per the Government Resolution dated 24 August 2004 still can be invoked and representation to that effect have been made by the Petitioner on 17 July 2015. The learned Counsel for the Petitioner states that pursuant to this communication the State Government ought to act upon the Government Resolution and for repayment of the liabilities which are due to the parties such as the Petitioner. The learned AGP is not able to inform us the outcome of the said representation which was made eight years ago.

4. The Writ Petition has remained pending in this Court for six years. It is not clear whether the policy of the State Government which led to issuance of the Government Resolution in the year 2004 still continues. Also it is not clear whether the representation has been acted upon or refused.

5. Proceeding on the statement made by the Petitioner that the representation is pending, we call upon the Respondent – State Government to give reply to the representation dated 17 July 2015 which is annexed to the Petition at Exhibit ‘H’. We make it clear that the representation would be answered strictly within the

parameters of the prevalent policy and as per law and not deemed to have confer any right on the Petitioner in this regard. Since the issue is pending from some time, the Respondents will make an endeavor to communicate their reply to the Petitioner at the earliest.

6. The Writ Petition is accordingly disposed of.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
PRAKASH
PAWAR
Date: 2023.10.31
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