IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7736 OF 2024

SOJARBAI W/O. CHANDRAKANT KAKDE
VERSUS
THE REGISTRAR, MONEY LENDING
ADDITIONAL COMMISSIONER AND OTHERS.
...
Mr. M.D. Shinde, Advocate for petitioner.
Mr. N.D. Raje, AGP for respondents.

CORAM : S.G. CHAPALGAONKAR, J.

DATE :- 25TH JULY, 2024.

ORDER :-

1. Heard Mr. M.D. Shinde, learned advocate for the petitioner and Mr. N.D. Raje, learned AGP for respondents.

2. Mr. Shinde submits that the petitioner owns the land Gat No. 58, admeasuring 8 Acres 24 Gunthas at village Dau Nimbala, Taluka Ausa, Dist. Latur. She was in need of money. Therefore, on 26.12.1995, she executed a nominal sale deed in favour of respondent Nos. 5 and 6 towards security of hand loan of Rs. 55,000/-. Some part of the land was acquired. Petitioner had, therefore, filed R.C.S. No. 756 of 1998 against the Acquiring Body seeking perpetual injunction. Respondent Nos. 5 and 6 were also made parties. However, said suit was dismissed for want of prosecution on 2.8.2002.

3. On 11.10.2014, petitioner's husband filed a complaint before

respondent No.2 under the provisions of the Maharashtra Money Lending (Regulation) Act, 2014 (hereinafter referred to as, "the Money Lending Act" for brevity). The inquiry was held. However, no action was proposed on the ground that transaction took place before 15 years. Petitioner challenged said report before the Appellate Authority. However, the authorities failed to entertain the complaint being barred by limitation. Mr. Shinde submits that although the transaction is of 1995, suit was filed by petitioner in the year 1998 and same has been dismissed in the year 2002. As such, 15 years period from the date of dismissal of suit should have been counted for the purpose of limitation. He would submit that perusal of the sale deed itself would show that it was a case of money lending transaction. Respondent/authorities have shirked their responsibility to find out the truth on technical ground. Therefore, he urges that the impugned order be quashed and set aside and matter be remitted back for inquiry into nature of sale transaction of the year 1995.

4. Per contra, learned AGP supports the impugned order. He submits that all the authorities have rightly held that the transaction in question took place beyond 15 years and as such, the authorities are not entitled to decide the nature of time barred transaction. As such, they have rightly dismissed the complaint on the ground of limitation. He therefore submits that no interference is warranted in writ jurisdiction.

5. I have considered the submissions advanced. It appears that petitioner seeks a declaration that the sale deed bearing No. 2152 of 1990 dated 26.5.1995 was a money lending transaction and consequential orders in accordance with the provisions of the Money

Lending Act.

Section 18(1) of the Money Lending Act, reads thus :-

"18. **Return of immovable property acquired in course of money-lending**

> (1) *If, on the basis of facts disclosed, during verification under section 16 or inspection under section 17, or by an application from a debtor or otherwise, the District Registrar has reason to believe that any immovable property, which has come in possession of the money-lender by way of sale, mortgage, lease, exchange or otherwise,* ***within a period of [fifteen years] from the date of verification or the inspection or the date of receipt of application from debtor****, in the nature of the property offered by the debtor to the moneylender as a security for loan advanced by the money-lender in course of money-lending, the District Registrar may, himself or through an inquiry officer, to be appointed for the purpose, in the manner prescribed, hold further inquiry into the nature of the transaction."*

6. A bare reading of the aforesaid provision would show that the authorities are given leverage to entertain the applications and return the immovable property acquired in course of money lending transactions entered within a period of 15 years from the date of the verification or inspection or the date of receipt of the application from the debtor and declare the nature of transaction. It is not in dispute that in the present case, the grievance is raised in respect of transaction of 1995 in the year 2014. All the authorities have rightly observed that transaction took place beyond 15 years and as such beyond time line prescribed under Section 18.

7. Although Mr. Shinde submits that the petitioner had instituted the suit for perpetual injunction in the year 1998 and same has been dismissed in the year 2005, the limitation has to be counted from that date, such argument cannot be accepted. In fact, once the petitioner had availed the remedy of filing suit and suffered dismissal in respect of the very same transaction, the decision of the Civil Court would supersede over the powers of the authorities. It is true that there is no adjudication of the dispute on merit by civil Court. However, the petitioner cannot seek extension of limitation for the purpose applying the provisions of the Money Lending Act, on the basis of time consumed in prosecuting the remedy in the civil court. The remedy before the civil court was substantive and efficacious remedy. In such cases, Section 14 of the Limitation Act would not operate for extension of limitation. Consequently, there is no merit in the writ petition. Same stands dismissed.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-