



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 12485 OF 2023

Dagdu Pandurang Pawar

....Petitioner

VERSUS

Priyadarshani Shetkari Sakhar
Kaharkhana Ltd. Alias Vilas Sahakari
Sakhar Kharkhana Ltd.

.....Respondent

.....

Mr. A. V. Patil Indrale, Advocate for the Petitioner.

Mr. A. D. Sonkawade, Advocate holding for Mr. A. V. Hon, Advocate for Respondent.

CORAM : R. M. JOSHI, J.

DATE : 3rd JULY, 2024.

PER COURT :

1. Petitioner i.e. Decree Holder in Dispute bearing No. 1/2015 has filed execution proceeding bearing Special Darkhast No. 66/2021 before Civil Judge Junior Division, Udgir for recovery of the decretal amount. The said proceeding came to be filed against Priyadarshani Shetkari Sakhar Kharkhana Ltd. @ Vilas Sahakari Sakhar Kharkhana Ltd., Tq. Udgir, Dist. Latur, through Manager. It is undisputed fact that Vikas Sahakari Sakhar Kharkhana Ltd appeared in the execution proceeding pursuant to receipt of summons and raised objection to the tenability of the proceeding.

Such application filed below Exhibit 11 came to be allowed by the learned Execution Court.

2. Learned counsel for Petitioner raises challenge to this order to the limited extent that the entire execution proceeding could not have been dismissed as the same would be tenable against priyadarshani Sahakari Sakhar Karkhana Ltd. He makes a statement on instructions that the execution proceedings are to be continued only against Priyadarshani Sahakari Sakhar Karkhana Ltd. According to him, the learned Execution Court has erred in dismissing the entire execution proceeding.

3. Learned counsel for Respondent representing Vikas Sahakari Sakhar Karkhana Ltd. Submits that there is no error committed by the Executing Court in dismissing the execution proceeding against this establishment. It is his submission that Vikas Sahakari Sakhar Karkhana has nothing to do with continuation of execution proceeding if it is to be continued so against Priyadarshani Sahakari Sakhar Karkhana Ltd.

4. Considering the grievance made by Vikas Sahakari Sakhar Karkhana, though it was open for the learned Execution Court to refuse continuation of execution proceeding against it, however, there is no reason or justification to dismiss execution proceeding against Priyadarshani Sahakari Sakhar Karkhana Ltd. It is observed that said factory does not exists however, the same is contrary to the material evidence placed on record which indicates that writ petitions are filed on behalf of Priyadarshani Sahakari Sakhar Karkhana and the said proceedings are still pending.

5. Having regard to these facts, the impugned order is partly interfered with. It is held that execution proceeding bearing Regular Darkhast No.66/2021 to continue against Priyadarshani Sahakari Sakhar Karkhana Ltd. Petition is disposed of in above terms.

(R. M. JOSHI)
Judge

dyb