



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

WRIT PETITION NO.14209 OF 2023

KOTAK MAHINDRA BANK LIMITED ..PETITIONER
VS.
UNION OF INDIA & ORS. ..RESPONDENTS

**WITH
INTERIM APPLICATION NO.961 OF 2024
IN
WRIT PETITION NO.14209 OF 2023**

MANISHSHANKAR SHETTY & ORS. ..APPLICANTS

IN THE MATTER BETWEEN

KOTAK MAHINDRA BANK LTD. ..PETITIONER
VS.
KOTAK MAHINDRA BANK LTD. & ORS. ..RESPONDENTS

Adv. Viraj Parikh i/b. Adv. Indrajeet Hingane & Adv. Tejas S. Mahamuni for petitioner.

Adv. S. C. Surana for applicant/intervener in IA/961/2024.

Adv. Jitendra B. Mishra a/w. Adv. Rupesh Dubey for respondent no.1.

Adv. Karan Adik for respondent no.2 – Customs.

Adv. Mahendra Agvekar for respondent no.3.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 5th August 2024.

P.C. :

INTERIM APPLICATION NO.961 OF 2024 IN WRIT PETITION NO.14209 OF 2023

1. This Interim Application has been filed by the twenty-one applicants who claim to be in the matter with the third respondent and seek to recover that dues from it. They pray that they be permitted to intervene in the present proceedings.

2. Considering the nature of directions proposed to be issued in the Writ Petition, we find that it would be necessary for the applicants to proceed against respondent no.3 independently for recovery of its dues in accordance with law.

3. Keeping their contentions open, the Interim Application is disposed of.

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4. The grievance raised by the petitioner in this Writ Petition is based on its claim of securing prior charge on a term deposit that has been credited from the sale of secured assets of the third respondent. The petitioner seeks to rely upon a sale certificate issued in its favour on 19th July 2012. Since the second respondent – the Commissioner of Customs (Import) also seeks to raise a claim in priority to the petitioner for recovering its dues, this Writ Petition has been filed.

5. We find from the record that the petitioner and second respondent have exchanged communications between themselves in the year 2016 and 2018. It would therefore be first necessary for the second respondent to consider the claim of the petitioner based on the sale certificate. To enable such consideration, the following directions would meet the ends of justice.

(I) Within fifteen days from today, the petitioner through its representative would address a representation to the second respondent – the Commissioner of Customs (Import) with all necessary details. The legal position in the form of decisions of this Court and the Supreme Court can also be referred to.

(II) Within a period of four weeks of receiving such representation, the second respondent shall consider the same and take a decision thereon through a speaking communication.

(III) The decision taken shall be communicated to the petitioner. In case, the petitioner is not satisfied with the outcome of the consideration of its representation, it is free to take appropriate legal steps.

6. Keeping all contentions open the Writ Petition is disposed of.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]