



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAW) NO.2758/2019
IN
WRIT PETITION NO.7845/2018

M/s Agriculture Produce Market Committee, Lakhani, Dist. Bhandara, through
its Secretary
...Versus...
Assistant Provident Fund Commissioner (Cir-III), Regional Office, Nagpur and
another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. P.V. Ghare, Advocate for petitioner
Mr. A.R. Prasad, Advocate for respondent no.1
Mr. A.A. Madiwale, AGP for respondent no.2

CORAM : BHARAT P. DESHPANDE, J.
DATE : 21/03/2024

1. Vide order dated 28/01/2020, this Court has observed as under :

“1] Pursuant to the order dated 21.1.2020, the learned Advocate for the petitioner submits that an appropriate application would be moved within 10 days before the learned Registrar (J.) and after satisfying the said Authority, the solvent surety would be taken on record.

2] The learned Advocate appearing on behalf of the Assistant Provident Fund Commissioner submits that it will have to be seen as to whether the land offered as solvent surety would satisfy the amount to be recovered from the petitioner.

3] Considering the same, the petitioner shall move an application before the learned Registrar (J.) on or

before 10.2.2020, failing which the ad interim protection granted by this Court would stand vacated. After the application is tendered, the learned Registrar (J.) would consider the valuation of the property and after being satisfied that it would satisfy the amount to be recovered, will pass an order based on his subjective satisfaction.

4] List this petition on 6.3.2020.”

2. In view of the above directions, the Registrar (Judicial) submitted note, which is found recorded in the Farad dated 07/09/2020, which reads thus :

“In pursuance of the order under reference above, the learned Counsel for the petitioner had earlier filed Pursis St. No.6/2022 submitting true copy of the Solvency Certificate No.AK/MAG/WS-10/2022 of Mouza Lakhani, dated 05.01.2022 issued in favour of the Secretary, Agricultural Product Market Committee, Lakhani, pertaining to Gat No.230, area 7435.32 Sq. Mtrs having market value of Rs.2,33,17,909/- determined as per the valuation certificate issued by the Sub-Registrar, Gr-1, Lakhani, District Bhandara.

As the undersigned pointed out to the Counsel that the Solvency Certificate should be in favour of APMC and not the Secretary, APMC, Lakhani mentioning that the Secretary, APMC owns and possesses the property particularly the property mentioned in the Solvency Certificate, the Counsel had ‘not pressed’ the Pursis and had filed fresh Pursis St.No.07/2022 alongwith corrected Solvency Certificate mentioning that the APMC, Lakhani, through Secretary owns and possesses the property mentioned in Schedule Part-‘B’ of the Certificate. Accordingly, the same is taken for perusal and consideration regarding the valuation of the property for the satisfaction regarding the amount to be recovered.

The petition in question pertains to challenge to the Award dated 05.11.2018 passed by the learned CGIT-

Cum-Labour Court, Nagpur in Case No.CGIT/NGP/EPFA/269/2017-18, which is at Annexure-I, thereby directing the petitioner to pay sum of Rs.71,98,257/-. Apart from the said dues, the direction also pertains to paying damages under section 14-B and interest under section 7Q. The interest will have to be w.e.f. 1.8.1999 and therefore determination of the said amount for the purpose of satisfaction regarding probability of recovery of the entire amount from the property of the petitioner APMC is required. As such, apart from the PF dues of Rs.71,98,257/-, other components regarding damages and interest need to be determined. Thus, for the purpose of recovery of PF dues of Rs.71,98,257/- de hors other components, upon perusal of the Solvency Certificate dated 05.01.2022, I am of the prima facie opinion that the property owned by the APMC, Lakhani being in Gat No.230 area being 7432.32 Sq. Mtrs would be sufficient for the recovery of the aforesaid amount as there is apparently no reason to deviate from the market value stipulated to be Rs.2,33,17,909/- determined on the valuation certificate issued by Sub-Registrar Gr.1, Lakhani, District Bhandara dated 15.06.2021.

Office to obtain calculation from the respondent regarding other components of dues to be recovered and place again.

Office to ensure for placing the matter before the Hon'ble Court as per earlier directions."

3. Learned counsel for the respondent no.1 submits that along with penalty and interest, the amount which is required to be recovered from the petitioner would be below two crores.

4. Considering the fact that the property, which the petitioner is ready and willing to consider, as security for the

recovery of dues and the valuation of which is more than 2.3 crores, the request of the petitioner for release of Bank accounts and the Fixed Deposits, which are under attachment could be considered.

5. Since the petitioner is ready and willing to give surety with regard to the property of which the valuation is more than 2.3 crores, the Bank accounts and the Fixed Deposits as per prayer clause (iii) of the present application could be released.

6. Accordingly, the said land bearing Gat No.230 admeasuring 7435.342 sq. mtrs. situated at Lakhani, District Bhandara is considered as security for the purpose of amount, which is allegedly recoverable from the petitioner so as to release the Bank accounts and the Fixed Deposits.

7. Accordingly, the civil application is allowed in terms of prayer clause (iii), subject to surety of the said property for the purpose of recovery of the entire dues with interest and penalty.

8. The civil application is accordingly disposed of. No order as to costs.

(BHARAT P. DESHPANDE, J.)