



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1636 OF 2024

M/s Shri Datta Chaitanya Infrastructure Pvt. Ltd
Through Its Director And Another

VERSUS

Osmanabad Janta Sahakari Bank Ltd Through Its Branch
Manager And Another

- Mr. M. S. Kulkarni h/f Mr. M. D. Shinde, Advocate for the Petitioners
- Mr. A. N. Irpatgire, Advocate for the Respondent No. 1

CORAM : R. M. JOSHI, J
DATE : FEBRUARY 26, 2025

PER COURT :

1. After hearing learned Counsels for both sides for some time, learned Counsel for the Petitioners submits that Petitioners essentially were intending to raise objection to the correctness of calculations sought to be made by Respondent/Bank before the Execution Court. He however concedes that in the applications Exh. 31, 35 and 39 the said issue was not specifically raised before the Execution Court. He drew attention of the Court to the present Petition as well as annexures thereto, which according to him indicate that the whole endeavour of the Petitioners was to take exception to the correctness of the

calculations. He, for want of specific prayer to that effect, finds it difficult to convince this Court on merit. He, therefore, on instructions, seeks withdrawal of the Petition with liberty to file appropriate application before the Execution Court.

2. Learned Counsel for Respondent records no objection for granting such opportunity. But he contends that the money is due from Petitioner for long period since the year 2012 and hence, direction is sought to Execution Court to decide proceeding expeditiously.

3. There cannot be any dispute with regard to the grievance sought to be made by Counsel for Respondent about pending recovery of money for long period. However, at the same time, the Execution Court is expected to pass order of declaration only after satisfying itself of the exact amount payable to the Bank. Since the said exercise is not done for want of specific prayer to that effect, this Court finds it appropriate to grant liberty as prayed. Hence, Petition is dismissed as withdrawn with liberty as prayed.

4. In view of pendency of Darkhast for a long period, if any such application is filed, Execution Court to decide the same within a period of a month from today.

5. Needless to say that the interim relief/protection granted by this Court subject to deposit of the amount, which has already been done, interim protection is continued for a period of one month from today.

(R. M. JOSHI, J.)