

In the Court of Judge, Co-operative Court Thane at Thane
(Presided over by Mrs. M. A. Sali, Judge)

Dispute No. CCT 212/2012
CNR No. MHCO04-000019-2012

Shri. Vilas Jawale

Disputant

V/S

Rupee Co-operative Bank Ltd. and others

Opponents

Order
(Below application Exh. 65)

1. The disputant states that he has filed this dispute against the opponent bank along with documents. The disputant has filed Xerox copies of the documents with disputes as list of document. The disputant has filed evidence in affidavit under the provisions of Order 18 Rule 4 of Civil Procedure Code. The disputant states that the original/office copies of the documents are in custody of the opponent no. 3 which is attached as list of documents which is require and necessary to produce in evidence. The disputant states that said original documents are in the custody of the bank authority i.e. the opponent no. 1 to 3. The disputant states that the above said original documents/office copies of documents are necessary to decide the above said dispute and therefore the same require to produce on record by the opponent no. 1 to 3 in the interest of justice.

2. The opponent no. 1 and 2 filed reply and submit that at the outset, the impugned application filed by the disputant is absolutely frivolous, vague and not maintainable at law. The opponent no. 1 and 2 most humbly submit that Order XI Rule 14 of

Code of Civil Procedure empowers the Court to order production of documents relating to the subject matter of the dispute. It does not entitle any party to the proceedings to apply to the Court for production of documents. Moreover such documents must be documents relating to the subject matter of the dispute. However the application is absolutely silent on that aspect. Opponents further submit that Bank is having document at serial no. 2(a) and 2(c) in their custody. The rest of the documents are presently not in their custody. The opponent no. 1 and 3 shall file the said document at serial no. 2(a) and 2(c) if the Court directs them to produce the same.

3. Considering the rival contentions the following issues are raised for my consideration and I have given findings on each of them with reasons as under :-

Sr. No.	Issues	Findings
1	Whether the application is entitled to be allowed ?	In the negative
2	What order ?	As per final order

REASONS

AS TO ISSUE NO. 1

4. Heard both the parties. Perused the documents produced on record and I find that the present application is filed by the disputant for production of the documents which are in the custody of the opponent no. 3 which includes the various letters given by the opponent no. 4 to the opponent no. 2 and opponent no. 2 to opponent no. 4. I find that the present dispute is filed by the disputant for a permanent injunction restraining the opponent no. 3 from auctioning the flat no. 301. I find that opponent no. 3 is a Special Recovery Officer. I also find that the recovery certificate is

issued by Deputy Registrar Co-operative Societies and by filing the present dispute the disputant praying to restrain the opponents to auction the flat of the disputant. I also find that the Deputy Registrar has already issued the recovery certificate against the disputant. The evidence of the disputant is already started and by filing the present application the disputant is praying the original documents which are in the custody of opponent no. 2 and 4. But I find that it is the duty of the disputant to prove the case on his own documents and not on the basis of the documents of the opponents. I also find that the disputant not mentioned how this documents are relevant to the present case. Hence from the above discussion I proceed to pass the following order.

Order

1. Application at Exh. 65 stands rejected.

Place : Thane
Date : 26 / 02 / 2020

(Mrs. M. A. Sali)
Judge
Co-operative Court, Thane