

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO. 7844 OF 2008

Arjunwadkar Engineering
Associates Pvt. Ltd. and ors. ..Petitioners

Vs.

Employees' Provident Fund Organization
and anr. ..Respondents

Mr. A.D. Patwardhan for petitioners.

CORAM: DR. D.Y. CHANDRACHUD, J.

Date : December 03, 2008.

P.C.:

. On the oral application of the learned counsel for the petitioners, leave to amend the petition to include Cosmos Co-operative Bank as the Third respondent. Amendment to be carried during the course of the day.

. Issue notice to the respondents, returnable on 17/12/2008. Hamdust permitted, in addition. The notice shall indicate that the petition may be heard and finally disposed of at the stage of admission.

. The contention of the petitioners is that the assets of the undertaking have been sold by the newly added respondent in realisation of its debts under the Securitization and Reconstruction of Financial Assistance and Enforcement of Security Interest Act, 2002 for an amount of Rs.90 lacs and, that having regard to the provisions of Section 11(2) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the statutory dues owing to the first respondent shall rank in priority. Reliance has been placed on a judgment of the Division Bench of this Court in Janata Sahakari Bank Ltd. vs. Asst. Provident Fund Commissioner and Recovery Officer and ors. (Writ Petition No. 639/05) decided on 23/6/2005. In the meantime, a warrant of arrest has been issued on 23/10/2008.

. Till the next date of hearing, there shall be an ad-interim order in terms of prayer clause (d).

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(Dr. D.Y. Chandrachud, J.)