

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR**S.B. Civil Writ Petition No. 16609/2019**

1. Sanjay Nimbawat S/o Girdhar Gopal Nimbawat, Aged About 40 Years, R/o 11 District Centre, Kamla Nehru Nagar, Jodhpur.
2. Giriraj Singh S/o Shivraj Singh, Aged About 42 Years, R/o House No. 607/2 Karai Kala, Bhilwara.
3. Bhawana Sharma D/o Babu Lal Sharma, Aged About 41 Years, R/o 33, Bhagirath Nagar, Near Arjun Nagar Underpass, Tonk Phatak, Lal Kothi, Jaipur, Rajasthan.
4. Manish Gupta S/o Hajari Lal Gupta, Aged About 33 Years, R/o 21 Roop Nagar, 1St, Mahesh Nagar, Tonk Phatak, Jaipur.
5. Amar Chand Meena S/o Lallu Lal Meena, Aged About 41 Years, R/o A-69, Sikar House, Cloth Market, Outside Chand Pole, Shastri Nagar, Jaipur.
6. Amit Kumar Sharma S/o Basudev Sharma, Aged About 33 Years, R/o House No. 74, Sadabahr Mohalla, Mukundgarh, Jhunjhunu.
7. Pramod Kumar Naug S/o P.c. Mathur, Aged About 51 Years, R/o House No. 225, Sector No. 61 Sanganer.
8. Mahesh Kumar Verma S/o Chagan Lal Verma, Aged About 44 Years, R/o C-107, 80 Feet Road, Mahesh Nagar, Lal Kothi, Jaipur.
9. Namita Gupta W/o Pavan Kumar Gupta, Aged About 43 Years, R/o 25 Pravasi Nagar, Near Kedia Palace, Circle, Murlipura, Jaipur.
10. Prithvi Raj Singh S/o Jeev Raj Singh, Aged About 37 Years, R/o Behind Gramin Bank, Harmada Bus Stand, Jaipur.
11. Gayatree Bariwa W/o Hemant Kumar, Aged About 36 Years, R/o House No. 37, Shanti Nagar, Kartarpura, Lal Kothi, Jaipur.
12. Rajendra Kumar Sharma S/o Ram Dayal Sharma, Aged About 35 Years, R/o Amer, Moorija, Daulatpura, Jaipur.
13. Ruchi Sharma D/o Mahendra Kumar, Aged About 35 Years, R/o B-231, Kirti Nagar, Tonk Road, Jaipur.
14. Mohneesh Rajora S/o Dharam Singh Rajora, Aged About 30 Years, R/o Krishna Vihar, Exetension, Gopalpura Bye Pass, Triveni, Circle, Jaipur.
15. Krishan Kant Mandhaia S/o Jagdish Prasad, Aged About 49 Years, R/o 17 Prem Nagar, Extension, Gopalpura Bye Pass

Mangal Vihar, Jaipur.

16. Vijay Shrivastava S/o Kailash Narayan, Aged About 35 Years,
R/o Villa No. 130, Mahima Kopal, Goner Road, Sanganer,
Jaipur.

-----Petitioners

Versus

1. The Reg., Coop. Societies, Jaipur, Nehru Sahkar Bhawan,
Jaipur
2. The Regional Manager, The Rajasthan State Co-Operative Bank
Ltd., Jodhpur Regional Branch, Jodhpur
3. The Administrator, The Rajasthan State Co-Operative Bank
Ltd., Dc-1, Lal Kothi, Opp. Nehru Bal Udhyan, Tonk Road,
Jaipur
4. The Managing Director, The Rajasthan State Co-Operative
Bank Ltd., Dc-1, Lal Kothi, Opp. Nehru Udhyan, Tonk Road,
Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Vikas Balia, Senior Counsel assisted by Mr. Shridhar Mehta
For Respondent(s)	:	Mr. Abhinav Sharma Mr. Pratap Singh Arya Mr. Mrigraj Singh Rathore

JUSTICE DINESH MEHTA

Order

Reserved on : 02/05/2023

Pronounced on : 09/05/2023

1. The present writ petition (which was filed on 31.10.2019)
has come up for consideration on an application (I.A. No.
03/2023) filed by the respondent – Bank on 17.04.2023, under
the caption ‘dismissal of writ petition as not being maintainable on
behalf of the respondent nos. 2 to 4’.
2. Before dealing with the application, this Court would like to
observe that similarly situated bank employees have preferred

another writ petition being S.B. Civil Writ Petition No. 16412/2019, in which a co-ordinate Bench vide order dated 24.10.2019 had passed the following interim order:-

"In the meanwhile and until further orders, the respondents are restrained from making any recovery from the petitioners pursuant to the 15th wage settlement."

3. The present writ petition came up for admission before a co-ordinate Bench of this Court on 01.11.2019. After hearing learned counsel for the petitioners, the Court issued notices and granted interim order in the following terms:-

"In the meanwhile and until further orders, the respondents are restrained from making any recovery from the petitioners pursuant to the 15th wage settlement.

However recovery, if any, made shall remain subject to the final outcome of the present writ petition."

4. The present matter was ordered to be connected with S.B. Civil Writ Petition No. 16412/2019 already pending before this Court.

5. Reply to the writ petition came to be filed by the respondent – Bank in June, 2020, while reply on behalf of the State came to be filed on 08.01.2021.

6. Thereafter, an application came to be filed by the petitioners being I.A. No. 01/2022. After hearing rival counsel rather following the order dated 05.02.2021 passed in S.B. Civil Writ Petition No. 16412/2019 a co-ordinate Bench of this Court by order dated 03.01.2022 issued directions to the respondent – Bank to release the arrears of the petitioners within a period of two weeks in

terms of the order dated 05.02.2021 passed in connected writ petition (SBCWP No. 16412/2019).

7. Against the order aforesaid, the respondent – Bank preferred an appeal being D.B. Special Appeal (Writ) No. 64/2022, which came to be dismissed by the Division Bench of this Court by way of the order dated 24.03.2022.

8. The applicant / respondent – Bank preferred a Special Leave Petition (Petition for Special Leave to Appeal (C) No. 9510/2022 : The Managing Director, The Rajasthan State Co-operative Bank Ltd. & Ors. vs. Sanjay Nimbawat & Ors.), thereagainst which too was dismissed by the Supreme Court vide order dated 11.07.2022. A liberty was however given to the applicant – respondent Bank to move an application before the Single Judge of High Court for vacation / modification of the order dated 03.01.2022.

9. In furtherance of the liberty so granted, the respondent – Bank has proceeded to move an application dated 23.08.2022 for modification of order dated 03.01.2022 being I.A. No. 02/2022 and the same is still pending.

10. An application under Article 226(3) of the Constitution of India has also now been filed in the year 2023 being I.A. No. 01/2023 for vacating the interim order dated 01.11.2019, followed by another application dated 06.04.2023 (I.A. No. 02/2023) for early hearing of the application No. 02/2022 (the application for vacation / modification of interim order dated 03.01.2022).

11. Before the above applications could be taken up yet another application for dismissal of the writ petition being I.A. No. 03/2023 has been filed on 17.04.2023.

12. Meanwhile, as the respondent – Bank did not comply with the order dated 03.01.2022 passed by the co-ordinate Bench of this Court, a contempt petition (S.B. Civil Contempt Petition No. 523/2022) came to be filed by the petitioners.

13. During the course of hearing of the said contempt petition, on 06.04.2023 learned counsel for the applicant submitted that since its filing, the application for modification of the order dated 03.01.2022 (being I.A. No.02/2022) could not be placed before the concerned Bench, as the record has been tagged with the said contempt petition.

14. While deciding the application filed in the said contempt petition being I.A. No. 03/2023, this Court had observed thus:-

"1. Learned counsel for the applicant invited Court's attention towards the fact that the respondent-Bank has been pursuing its remedies diligently and took up the matter up to Hon'ble the Supreme Court questioning the legality of the order dated 03.01.2020. It was also informed that when their SLP got disposed of on 11.07.2022, they moved an application for modification/vacation of the order dated 03.01.2022, passed by Coordinate Bench of this Court without any delay (on 16.08.2022).

2. Learned counsel submitted that since then (16.08.2022) in spite of the endeavours made by the applicant the same could not come up for consideration of Hon'ble the Court, perhaps because the record of the writ petition was tagged with the present contempt petition.

3. He therefore, prayed that the proceedings of contempt be deferred until said application IA No.2/2022 (dated 16.08.2022) is decided by the concerned Court.

4. Learned counsel for the petitioners opposed respondents' prayer and argued that the respondents

are taking lame excuses in order to avoid compliance of the order passed by this Court. He submitted that the petitioners are facing financial hardship and hence, no indulgence be granted to the applicant-respondent Bank.

5. Having heard learned counsel for the applicant, this Court feels that the applicant-respondent Bank has been bonafidely pursuing its remedies which is evident from the fact that on 16.08.2022, the applicant-Bank has moved the application for modification of the order dated 03.01.2022. It is also a fact that for whatever reason, the same has not been placed for consideration of the concerned Court.

6. This Court feels that before punishing the contemnors, and holding that non-compliance is willful and deliberate, it would be expedient that they are allowed to exhaust their remedy already availed (which is hopefully the last).

7. For whatever has been noticed afore, the application I.A. No.3/2023 is allowed. In the interest of justice, the proceedings in hands are deferred till 24.05.2023.

8. The contempt petition be listed on 25.05.2023.

9. The record of the writ petition No.16609/2019 and 16412/2019 be detached from the present contempt petition and the application filed by the applicant on 16.08.2022 being I.A. No.2/2022 dated 23.08.2022 be placed forthwith for consideration of the Court concerned subject of course to convenience of the concerned Court.

10. Needless to observe that contention of the applicant or observation in the order instant shall not be construed to be a finding or view of this Court about the correctness or otherwise of the order dated 03.01.2022."

15. It is to be noted that inspite of clear directions given therein, (duly noticed in Para 9 above) neither the Registry has placed the matter nor has the applicant / Respondent Bank made any

endeavour to get the same (I.A. No. 02/2022) listed before the concerned Court. Whatever may be the reason, the application dated 16.08.2022 for modification the order dated 03.01.2022 (being I.A. No. 02./2022) has not been placed before the Court concerned.

16. Meanwhile, on 17.04.2023, the respondent – Bank has preferred the present application (I.A. No. 03/2023) seeking dismissal of the writ petition being not maintainable alongwith an additional affidavit of even date with three documents (Inward No. 02/2023) under the caption “Additional affidavit in support of reply to the writ petition and also to support the stay vacation application on behalf of the respondent nos. 2 to 4.”

17. Flagging the difficulty the Bank is purportedly facing, Mr. Sharma prayed that the application for early listing be allowed and his application (I.A. No. 03/2023) be heard today, lest the officers of the Bank would face the wrath of contempt proceedings.

18. In view of the urgency expressed, the I.A. No. 02/2023 is being taken up for consideration.

19. Mr. Abhinav Sharma, learned counsel for the applicant / respondent – Bank made following submissions / contentions:

- (i) Principal Seat of this Court has no territorial jurisdiction to hear this case on the ground that all the petitioners except petitioner no.1 are either residents of the district falling within the territorial jurisdiction of Jaipur Bench of this Court or they are posted in the banks having their operations in such districts. Highlighting that offices of the respondent – Bank are at Jaipur and even the wage settlement impugned

in the writ petition had been executed at Jaipur, the writ petition is not maintainable at Principal Seat of this Court.

- (ii) that though the dispute is essentially in relation to the wage settlement which is an agreement entered into between the employees' Union and the Bank, yet the petitioners have chosen not to implead the Union as party and thus, the petition is liable to be dismissed for non-joinder of necessary parties.
- (iii) The wage settlement, as per the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act of 1947') is binding on all and the same cannot be challenged by way of writ petition.
- (iv) Inviting Court's attention towards the cause title and the manner in which the respondents have arrayed, learned counsel argued that since the respondent – Bank (Rajasthan State Cooperative Bank Ltd.) is not a party, the petition deserves to be dismissed for mis-joinder of parties.

Developing his argument, learned counsel submitted that the petitioners have impleaded the Registrar and not the State; Regional Manager, Administrator of the Bank and not Rajasthan State Cooperative Bank Ltd., itself.

- (v) Learned counsel submitted that the dispute raised by the petitioners in the present writ petition is required to be determined by way of Arbitration under Section 58 of the Rajasthan Cooperative Society Act, 2001 (hereinafter referred to the 'Act of 2001').
- (vi) The respondent – Bank being a Society registered under the Act of 2001, is not a 'State' within the meaning of Article 12

of the Constitution of India and thus, the writ petition is not maintainable.

20. Responding to the preliminary objections raised by the applicant / respondent – Bank, Mr. Vikas Balia, learned Senior Counsel at the outset opposed the very maintainability of the application by flagging that the reply to the writ petition was filed by the respondent – Bank way back in June, 2020, however, without raising any preliminary objection regarding the territorial jurisdiction or maintainability of the writ petition in the manner canvassed by Mr. Sharma. He argued that filing of such application after three years of the pendency of the writ petition, is an abuse of the process and the present application has been filed just to buy time and protract the proceedings, which the officers of the Bank are facing in the contempt petition filed by the petitioners.

21. It was thereafter argued that the application as framed is not maintainable in the eye of law. Developing his argument, learned counsel submitted that the present application seems to have been filed being aggrieved with the order dated 03.01.2022 passed by the co-ordinate Bench of this Court. He submitted that neither at the time of passing the said order, nor before the Division Bench when the appeal was preferred, nor before Hon'ble the Supreme Court, the pleas which have been so zealously raised by Mr. Sharma were raised.

22. The applicant – respondent Bank is barred by the principles given under Order II Rule 2 of the Code of Civil Procedure. He submitted that the pleas and objections, which were available to the respondent – Bank at the time of filing reply and even while

taking up the matter till the Apex Court, having not being taken, cannot be permitted to be raised at such a belated stage.

23. Responding to the applicant's objection regarding territorial jurisdiction, learned Senior counsel submitted that not only the petitioner no.1 is resident of district Jodhpur, even he is posted at Jodhpur and therefore, simply because other 15 persons have joined hands with him to prefer the writ petition before Principal Seat at Jodhpur, the writ petition cannot be dismissed for want of territorial jurisdiction. He submitted that in the face of the fact that a number of similar writ petitions are pending at Principal Seat involving this very controversy, the petitioners cannot be non suited on the ground of jurisdiction.

24. Highlighting that even while passing the first order in the present writ petition on 01.11.2019, the Court was apprised of the fact that identical writ petition (S.B. Civil Writ Petition No. 16412/2019) is pending, for which the present writ petition has been ordered to be connected with such writ petition, he submitted that if the particulars of the petitioners involved in the said writ petition being S.B. Civil Writ Petition No. 16412/2019 are considered, all of them are residents of district Jodhpur and are serving at the bank at Jodhpur. He thus submitted that in these facts and circumstances, the writ petition in hands is maintainable at the Principal Seat only.

25. In relation to applicant's argument that the petitioners have a remedy of raising an industrial dispute under the Act of 1947 before the Industrial Tribunal, learned Senior Counsel contended that the applicant's stand is self defeating. If the settlement is binding as per the Act of 1947 then, how remedy under the Act of

1947 can be said to be available to the petitioners, argued Mr. Balia.

26. Reading para 20.4 of the wage settlement (Annexure-RA/1), learned Senior Counsel submitted that the same cannot be construed to be an arbitration agreement.

27. He also submitted that the petitioners cannot avail the remedy under the Act of 1947, because they are not workman within the meaning of Section 2(s) of the Act of 1947.

28. Adverting to the applicant's argument that the petitioners are having a remedy under Section 58 of the Act of 2001, learned counsel argued that the challenge which has been brought to this Court by the petitioners is not amenable to Section 58 of the Act of 2001.

29. In relation to the applicant's objection about the maintainability of the writ petition on the ground that the respondent – Bank is not a 'State' within the meaning of Article 12 of the Constitution of India, learned counsel relied upon Division Bench judgment dated 12.01.2016 passed in bunch of appeals led by **D.B. Special Appeal (Writ) No. 529/2015 (Rajasthan Urban Co-operative Bank Ltd. vs. Ajay Kumar Katewa & Ors.)** and submitted that while dealing with all the judgments on this aspect, including the judgment in the case of **Ajay Hasia vs. Khalid Mujib Sehravardi** reported in **(1981) 1 SCC 722** (relied upon by Mr. Abhinav Sharma), it has been held that the respondent – Bank though being a Society under the Act of 2001 is amenable to the writ jurisdiction of the High Court.

30. Mr. Sharma, learned counsel for the respondent – Bank in rejoinder submitted that he has nothing more to add except that

Special Leave Petition had been preferred against the above referred Division Bench judgment dated 12.01.2016 and while disposing of the same, Hon'ble the Supreme Court has kept the issue open regarding maintainability of the writ petition against Rajasthan Urban Cooperative Bank Ltd. And, therefore, Division Bench judgment dated 12.01.2016 (supra) cannot be taken as a binding precedent, particularly when on atleast 3 occasions, Single Benches of this Court have held that no writ petition is maintainable against the Cooperative Society registered under the Act of 2001.

31. Heard learned counsel for the parties.

32. Before dilating upon the preliminary objections raised by Mr. Sharma, it is to be borne in mind that the present writ petition was filed in the year 2019 and the interim order was passed way back on 01.11.2019. In spite of the fact that a detailed reply was filed by the respondent – Bank in June, 2020, no such objection regarding territorial jurisdiction or maintainability of the writ petition in the manner argued was raised by the Bank.

33. The objection which was taken by the respondent – Bank in its reply filed in June, 2020 hovers around the contention that the wage settlement is binding on all parties. No objection regarding territorial jurisdiction or maintainability of the writ petition was taken.

34. It is to be noted that even application (I.A. No. 1/2023) under Article 226(3) of the Constitution of India for vacation of order dated 1.11.2019 was not filed by the Respondent - Bank initially while filing the reply and the same came to be filed in the year 2023.

35. This Court is of the considered opinion that the objections raised by Mr. Sharma, by way of extant application filed by the respondent – Bank were available to the Bank at the time of filing reply. The same having neither been taken in the reply nor by way of any preliminary objection for three years, cannot be permitted to be raised now, that too, pursuant to an application under the caption 'dismissal of the writ petition'.

36. It appears that having lost the battle till the Supreme Court against the order dated 03.01.2022, the respondents have devised with a new idea of circumventing the mandate of the order dated 03.01.2022 and to ward off the stern action which the Court may take in the contempt petition (No. 523/2022) that its officers are facing.

37. While holding that the pleas, which were available ought to have been taken by the respondent – Bank at first opportune moment cannot be permitted to be raised after three years of the filing of the reply, this Court feels that such endeavour is not only abuse of the process but also barred by the principles of Order II Rule 2 of the Code of Civil Procedure.

38. Order II Rule 2 of the Code of Civil Procedure reads as under:-

"2. Suit to include the whole claim.

(1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

(2) Relinquishment of part of claim- Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim he shall not

*afterwards sue in respect of the portion so omitted or
relinquished.*

39. This Court is not in-cognizant of the fact that by virtue of explanation of Section 141 of the Code of Civil Procedure, the provisions of the Code of Civil Procedure do not apply to the proceedings under Article 226 of the Constitution of India, but as has been held by the Courts "the principles of the Code do apply".

40. This Court is, therefore, of the considered opinion that the grounds and objections which have not been taken by the respondents in their reply and which have never been their pleas before the Division Bench and before Hon'ble the Supreme Court even while challenging the order dated 03.01.2022, cannot now be allowed or considered simply because the respondents have become wiser now.

41. During the course of arguments, while observing that the application under consideration may ultimately be construed misconceived and the Court may refuse to dismiss the petition solely on the ground of the objections so raised in the application, the Court suggested the Bank to move an application seeking leave to amend the reply, but such advise of the Court was not acceded to by the applicant / respondent – Bank and the applicant insisted upon dismissal of the writ petition on the basis of pleas taken in the subject application.

42. It is settled position of law that the question of jurisdiction and more particularly, the objection of territorial jurisdiction has to be raised at the first opportune moment and if such question is not raised, the defendant/respondent is treated to have submitted to the jurisdiction. Gainful reference can be made to the following Hon'ble Apex Court's judgments.

(i) In **Harshad Chiman Lal Modi v. DLF Universal and Anr., (AIR 2005 SC 4446)**, the Hon'ble Apex Court has held as follows:

*30. The jurisdiction of a Court may be classified into several categories. The important categories are (i) territorial or local jurisdiction; (ii) pecuniary jurisdiction; and (iii) jurisdiction over the subject-matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. **Jurisdiction as to subject-matter, however, is totally distinct and stands on a different footing.** Where a Court has no jurisdiction over the subject-matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a Court having no jurisdiction is a nullity.*

(ii) In **Cantonment Board Vs. Church of North India ((2012) 12 SCC 573)** while relying on **Balwant N. Viswamitra & Ors. vs. Yadav Sadashiv Mule**, reported in **(2004) 8 SCC 706**, Hon'ble the Supreme Court has held that:

15. it is undoubtedly true that objection to the maintainability of a proceeding must be raised at the earliest but an objection that the authority did not have the jurisdiction to entertain the proceedings over the subject-matter goes to the root of the proceeding. In a number of judgments, this Court has held that a defect, with respect to the lack of inherent jurisdiction is basic and fundamental and validity of such an order can be challenged at any stage, even in execution or in collateral proceedings.

43. Although the respondent – Bank has joined the issues on merit without raising any objection as to the jurisdiction of the

Principal Seat, this Court in the interest of justice, deems it apt to deal with the objections raised by the respondent – Bank. According to this Court, even on merit, the respondent – Bank’s objection about the territorial jurisdiction deserves to be rejected.

44. Admittedly, the petitioner no.1 not only resides in Jodhpur but also serves in bank’s office situated at Jodhpur. Hence, there cannot be any quarrel about maintainability of writ petition qua the petitioner no.1.

45. Such being the position, if the employees residing and posted in the Districts which are subject to territorial jurisdiction of Jaipur Bench, converge and join hands with an employee at Jodhpur, who proposes to file a writ petition, the petition cannot be thrown away simply because some of the petitioners or most of them hail from districts within the territorial jurisdiction of Jaipur Bench of this Court, given that identical writ petitions are pending at Principal Seat. Things may be different, if the facts on record show that the petition has been filed in order to avoid Caveat already filed by the respondents or is an attempt of forum shopping.

46. That apart, a number of other writ petitions on the same issue pending at the Principal Seat, one of which being S.B. Civil Writ Petition No. 16412/2019. Hence, this petition cannot be dismissed for want of jurisdiction.

47. The High Court’s power to issue writ to the respondent – Bank for it not being a State within the meaning of Article 226 of the Constitution of India was also vociferously questioned by Mr. Sharma and Mr. Balia’s reliance upon the Division Bench judgment dated 12.01.2016 in the case of Rajasthan Urban Cooperative

Bank Ltd. (supra) was objected to with an assertion that while dismissing the SLP, Hon'ble the Supreme Court has kept the issue of maintainability of writ open. This Court is not convinced with such argument of Mr. Sharma. If the Supreme Court has kept the issue open, it means it has been kept open to be determined by the Supreme Court in an appropriate case, but such observation of the Supreme Court cannot be construed to wither away the binding effect of a law laid down by the Division Bench of the High Court, which is binding on this Court.

48. The above referred order of the Supreme Court was not placed before this Court. But for the sake of dealing with the argument, the Court, however, surfed through the Supreme Court's website only to find that the SLP against the Division Bench judgment dated 12.01.2016 has been dismissed by order dated 05.04.2016 while recording thus:

We are not inclined to entertain this special leave petition, which is dismissed. Pending application(s), if any, shall stand disposed of.

49. The contention raised by Mr. Sharma, about the dismissal of the SLP while keeping the issue open apart from being misconceived is factually incorrect too.

50. It is noteworthy that similar matters are pending at the Principal Seat wherein identical orders have been passed. Dealing one matter out of the bunch on the grounds raised now would be against the judicial discipline, particularly when interim orders of the nature of the order dated 01.11.2019 and 03.01.2022 have also been passed in such cases and no such applications have been filed in such petitions. If the present petition is disposed of

singling it out of the bunch, it would adversely affect rights of the parties involved in other cases.

51. In the factual and legal backdrop as noticed above and considering that the identical matters are pending before the Principal Seat, this Court is of the considered view that the present writ petition is maintainable.

52. So far as other objections raised by the respondent – Bank that the employees' Union is not a party, cannot be construed to be a fatal defect hitting at the very competence of the writ petition, for which the present application filed at such belated stage, should be heard and allowed.

53. Even otherwise, on over all analysis of pleadings and the grounds raised in the present writ petition, this Court is of the view that the discrepancies pointed out by Mr. Sharma in relation to joinder of necessary party and inappropriate impleadment of the respondents, is not fatal to the very competence of the writ petition. The petition, therefore, cannot be dismissed on such counts. The petitioner is, however, given liberty to move appropriate application (if so desired), for correction in the cause title and / or impleadment of the party.

54. Other arguments about the nature of wage settlement being binding, remedy available under the Industrial Disputes Act and the Cooperative Societies Act have already been taken in the reply to the writ petition. Hence, adjudication on such questions pursuant to present application will not be proper exercise of jurisdiction. These issues which have not been specifically decided in the order instant are left open to be determined at appropriate stage.

55. In the opinion of this Court, the application is not only misconceived, but is an attempt to unnecessarily prolong the proceedings of the writ petition, which could otherwise have been heard and decided given the time spent on hearing the application and dealing with otherwise lengthy arguments.

56. For the discussions foregoing, the application (I.A. No. 03/2023) is dismissed.

57. Office is directed to place the application dated 16.08.2022 seeking modification of the order dated 03.01.2022 being I.A. No. 02/2022 before the concerned Bench. However, subject to convenience of Her Ladyship.

58. The matter may, thereafter be listed before the Roster Bench.

59. Interim order, if any, shall continue till then.

(DINESH MEHTA),J