

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5981 OF 2009

Karunashankar Ramkishore Tiwari

..Appellant

versus

Khamgaon Urban Coop. Bank Limited and others

..Respondents

O R D E R

This appeal is directed against order dated 1.12.2006 passed by the learned Single Judge of the Bombay High Court, Nagpur Bench in Appeal against Order No.67 of 2006 whereby the order of temporary injunction passed by the trial Court was vacated.

We have heard learned counsel for the parties at length and perused the record. We have also gone through the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the 2002 Act').

In our view, the detailed reasons recorded by the learned Single Judge of the High Court for reversing the order of injunction passed by the trial Court are legally correct and the order under challenge does not call for interference under Article 136 of the Constitution.

The appeal is accordingly dismissed.

However, liberty is given to the appellant to avail remedy by filing an application under Section 17(1) of the 2002 Act. If the appellant files such an application within one month from today and raises the plea that the bank could not have invoked the provisions of 2002 Act, then the concerned Debts Recovery Tribunal shall first decide the issue relating to applicability of 2002 Act and then pass appropriate order on the merits of the case.

All the pending interlocutory applications are disposed of.

.....J.
[G.S. SINGHVI]

NEW DELHI;
AUGUST 26, 2013

.....J.
[V. GOPALA GOWDA]

ITEM NO.3

COURT NO.2

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

IA 3/2013 in CIVIL APPEAL NO. 5981 OF 2009

KARUNASHANKAR RAMKISHORE TIWARI

Appellant (s)

VERSUS

KHAMGAON URBAN COOP.BANK LTD.& ORS.

Respondent(s)

(for directions and office report)

Date: 26/08/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Appellant(s) Mr. Manish Pitale, Adv.

For Respondent(s) Ms. Anagha S.Desai ,Adv

UPON hearing counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

| (Parveen Kr.Chawla)
| Court Master

| | (Phoolan Wati Arora)
| | Court Master

[signed order is placed on the file]