

Canara Bank vs Deepak Dhanraj Murpana on 29 January, 2020

Bench: R. Banumathi, A.S. Bopanna

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ITEM NO.8

COURT NO.5

SECTION

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

Petition(s) for Special Leave to Appeal (C) No(s). 24486/2019
(Arising out of impugned final judgment and order dated 06-12-2018
in AN No. 134/2018 passed by the High Court Of Judicature At
Bombay)

CANARA BANK

Petiti

VERSUS

DEEPAK DHANRAJ MURPANA & ORS. Respondent(s)
(IA No. 182137/2019 - APPLICATION FOR VACATION OF INTERIM ORDER
IA No. 150241/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT AND IA No. 175831/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 29-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s)

Mr. Rishabh Sancheti,Adv.
Ms. Shreya Sethi,Adv.
Mr. Dhruv Nayar,Adv.
M/S. M. V. Kini & Associates, AOR

For Respondent(s)

Mr. Mukul Rohatgi,Sr.Adv.
Mr. Shyam Divan,Sr.Adv.
Mr. Jatin Zaveri, AOR
Mr. Ooril Nilesh Panchal,Adv.
Mr. Ishaan Mahimtura,Adv.
Mr. Neel Kamal Mishra,Adv.

Mr. Kush Chaturvedi, AOR
Ms. Priyashree Sharma PH,Adv.
Ms. Aditi Agarwal,Adv.

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

We have heard learned counsel appearing on behalf of the parties.

The petitioner-Canara Bank is before this Court assailing the order dated 06.12.2018 passed by the High Court of Judicature at Bombay in Appeal No.134 of 2018 relating to the order in Notice Motion (Suits) Nos. 583 of 2016 in Suit No. 822 of 2015. Having heard the learned counsel for the petitioner and learned senior counsel for the respondents, we take note that the petitioner herein had instituted the suit bearing No. 822 of 2015 claiming right of pre-emption based on the covenant contained in indenture of lease dated 18.04.1959. In the said suit, the respondents herein have moved the notice of motion under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint as having been barred by limitation. The application was opposed by the petitioner herein. On considering the rival contentions, notice of motion was allowed by the learned single Judge by order dated 24.08.2017 and the suit was dismissed on the ground of limitation. Against the same, the appeal was preferred and the Division Bench of the High Court has affirmed the same. In the said background, having noticed the reasons as assigned by the Learned Single Judge as well as by the Division Bench of the High Court, we are of the opinion that the same does not call for any interference in a petition of present nature.

At this stage, learned counsel for the petitioner submits that though this Court is not inclined to interfere with the order in question, keeping in view the fact that the respondents have initiated the suit for eviction, the contentions put forth by the petitioner relating to leasehold rights should not be prejudiced by the present order. To this extent, we make it clear that the rival contentions available to the parties in the eviction suit would be considered on its own merits by the Court concerned and would not be prejudiced by the dismissal of this petition wherein the petitioner has been declined the claim for right of pre-emption only. All contentions in that regard are left open.

We also take note of the submissions of the learned senior counsel for the respondents that pursuant to the notice issued by the Municipal Corporation of Greater Mumbai, the debris which is lying in the plot as the building has been demolished due to dilapidated condition is to be removed. To the said extent notwithstanding the rival contentions available to the parties to the eviction suit, the respondents herein are permitted to remove the debris at their own cost. All other contentions are left open.

The special leave petition is disposed of in above terms. Pending application(s), if any, shall also stand disposed of.

(MADHU BALA)
COURT MASTER (SH)

(BEENA JOLLY)
BRANCH OFFICER