

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8836 OF 2015

Shri Anil Sadashiv Swami and Ors.	]	... Petitioners
Versus		
Gajanan Rural Non-Agricultural Co-Operative	]	
Credit Society and Ors.	]	... Respondents

Mr. J. P. Kharge for Petitioners.
 Mr. Vijay Killedar for Respondent No.3.
 Mr. S. D. Rayrikar for Respondent No.4.

CORAM :- M. S. SONAK, J.
DATE :- SEPTEMBER 07, 2015

P. C. :-

1. This petition is thoroughly misconceived. Section 154 (2A) of the Maharashtra Co-Operative Societies Act provides that no application for revision shall be entertained against the recovery certificate issued by the Registrar under section 101 unless the applicant deposits with the concerned society, fifty percent amount of the total amount of recoverable dues.

2. In the present case, the Petitioners question not only the recovery certificate but further the auction of the suit premises, in pursuance of the same. The Petitioners have not deposited 50 percent of the amount of recoverable dues. Instead, the Petitioners seek to place reliance upon the amount deposited by the auction purchaser, on the basis of which, the Petitioners' loan account came to be closed.

This is hardly compliance of Section 154 (2A) of the said Act. On the basis of deposit made by the auction purchaser, the Petitioners cannot, as a matter of right, seek the entertainment of the revision application, which if ultimately allowed, may result in setting aside of the very auction process. Section 154 (2A) of the said Act statutorily insists that revision Petitioner deposits 50% amount of the total amount of recoverable dues before the revision petition is entertained. The entire purpose for such statutory insistence is to obviate the necessity of fresh proceedings against the revision Petitioner to recover dues, at least to the extent of 50%, should the revision fail. If the Petitioner's contention that the amount deposited by auction purchaser, whose auction purchase, the revision Petitioner indirectly challenges, be regarded as a deposit towards the revision Petitioner's obligation under Section 154(2A) of the said Act, then very purpose for enactment of the statutory provision, will stand frustrated.

3. In the aforesaid circumstances, the impugned order, by which revisional authority has rightly declined to entertain the revision petition on the ground of non-compliance with the provisions contained in Section 154 (2A) of the said Act is correct and suffers from no jurisdictional error whatsoever. Accordingly, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Order.