

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3769 OF 2015

1.Shri.Nabhiraj Bapu Desai & Ors. ... Petitioners.

Vs.

1.The General Manager/ Chairman,
Parshwanath Cooperative Bank Ltd. & Ors. ... Respondents

Mr.Kiran Bapat with Mrs.Suman Y.Lengare, for the Petitioners.

Mr.Amit B.Borkar, for Respondent No.1.

Mr.A.I.Patel, AGP for Respondent Nos.2 to 7.

**CORAM : S.C. DHARMADHIKARI &
G.S. KULKARNI, JJ.**

DATE : 15th JULY, 2015.

PC. :

1. Having heard both sides at some length on two or three occasions earlier and when we were to pass final orders today, Mr.K.S.Bapat, learned Counsel appearing on behalf of the petitioners produces a written authorization of the petitioners authorising the

learned Counsel to apply for leave to withdraw the Writ Petition with liberty to challenge the recovery certificates issued under Section 101 of the Maharashtra Co-operative Societies Act before the competent Authority and in appropriate proceedings.

2. After taking copy of the written instructions on record and in the light of the request made, we grant leave to withdraw the Writ Petition with liberty to adopt such proceedings as are permissible in law. We clarify that all contentions of both sides on jurisdiction, maintainability and merits are kept open.

3. After withdrawing the Writ Petition, Mr.Bapat has made a request that though there is no ad-interim or interim order in the Writ Petition but the petitioners apprehend that their immovable property would be auctioned and disposed of by the first respondent – Bank to recover the sums under the certificates. Mr.Bapat prays that for a period of three months and in order to enable the petitioners to raise money for deposit in the proceedings before the appropriate forum, these properties may not be sold or auctioned.

4. Though this request is opposed by Mr.Borkar, learned Counsel appearing on behalf of the respondents, after having heard both sides, we direct that for a period of three months the immovable properties of all the petitioners and which are stated to be located in Taluka Hatkanagale, District Kolhapur shall not be sold, disposed of or auctioned in any manner. However, we further direct the petitioners and who claim to be in possession of these lands that they shall not dispose of or sell the same in any manner or create third party rights in relation thereto nor part with possession thereof for a period of three months from today. Needless to clarify that this concession is given to the petitioners purely on humanitarian and sympathetic grounds and same shall not bind any legal authority and that authority shall deal with the matter on it own merits and in accordance with law.

(G.S.KULKARNI, J.)

(S.C. DHARMADHIKARI, J.)