

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2546 OF 2011
WITH
CIVIL APPLICATION NO. 3067 OF 2015

Narayan Gajanan Thakur .. Petitioner
vs.
Karnala Nagari Sahakari Bank
Ltd. & Ors. .. Respondents

Mr. S. A. Pawar for Original Petitioner in WP.
Mr. Hiranandani h/f. Mr. C. G. Gavnekar for Respondent Nos. 1 and 2 in WP and for Applicants in CA.
Mr. S. D. Rayrikar -AGP for Respondent Nos. 3 and 8 in WP.
Mr. Suhas Deokar for Respondent No. 9 in WP.

CORAM : M. S. SONAK, J.
DATE: 26 NOVEMBER 2015

P.C. :-

1] The learned counsel appearing for Original Respondent Nos. 1 and 2, on the basis of instructions from the said Respondents, makes a statement that the auction dated 8 November 2010 was incorrectly held and therefore, the said Respondents have no objection if this petition is made absolute in terms of prayer clause (c) thereof. Prayer clause (c) of this petition reads thus :

“(c) This Hon'ble Court be pleased to see legality, validity and propriety in the impugned judgment and order dated 16.12.2010 passed by the Learned Divisional Joint Registrar, Konkan Division in Revision Application No. 38 of 2010 arising out of public auction notice published in daily newspaper on 30.9.2010 and order of auction dated 8.11.2010 and same are to be quashed and set aside.”

2] In view of the aforesaid, Rule is made absolute in terms of prayer clause (c). There shall be no order as to costs.

3] By interim order dated 12 August 2011, it was directed that no further steps shall be taken by Respondent Nos. 1 and 2 on the basis of impugned auction, subject to the Petitioners depositing in this Court a sum of Rs.1,01,00,000/- within a period of 10 weeks from today. There is no serious dispute that this amount was deposited by the Petitioner within the prescribed period and further, in pursuance of order dated 1 December 2011, the Respondent Nos. 1 and 2 have withdrawn the said amount.

4] Now that the impugned auction is set aside, by way of restitution, it is only appropriate that the Respondent Nos. 1 and 2 refund to the Petitioners the amount of Rs.1,01,00,000/- within a period of six weeks from today. In case, the amount is not refunded within a period of six weeks from today, the same shall carry interest at the rate of 10% per annum from the date the Respondent Nos. 1 and 2 have withdrawn the said amount till the date of actual payment. This shall however be without prejudice to the rights of the Petitioners to initiate appropriate proceedings against the Respondent Nos. 1 and 2 for disobedience of the directions of this Court.

5] All concerned to act on basis of authenticated copy of this order.

6] In view of the disposal of the petition, civil application no. 3067 of 2015 is also disposed of in the aforesaid terms.

(M. S. SONAK, J.)

Chandka