

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.1996 OF 2013

IN

WRIT PETITION NO.10024 OF 2011

Khetani Industrial Premises Co-op. Society Ltd. .. Applicant

IN THE MATTER BETWEEN

Oriental Cement Paint Industries and another .. Petitioners

Versus

State of Maharashtra and others .. Respondents

Mr. M. G. Patil i/by Mr. N. N. Bhadrashete, for the Applicant.

Mr. Joel J. Carlos, for the Respondent No.4.

Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.1 & 5.

Mr. Dilip Solanki, partner of Oriental Cement Paint Industries-present.

CORAM : R.M. SAVANT, J.

DATE : 6th AUGUST, 2015

PC.

1. The above Civil Application has been filed by the Applicant seeking its impleadment and for modification of the interim order dated 29.11.2012 passed therein so as to seek deletion of clause 6 from the said order. The application is founded on the fact that in respect of the two galas which are subject matter of the auction proceedings, there are arrears of maintenance charges to the extent of Rs.36 lakhs. The above

Petition takes exception to the auction proceedings conducted by the Respondent No.2 through the Respondent No.3 i.e. Special Recovery Officer. It appears that pursuant to the said auction, the Respondent No.4 is in possession of the auctioned property. In my view, therefore, the Applicant has nothing to do with the subject matter of the above Petition and is therefore not a necessary party, if the Applicant has any claim towards the maintenance charges either against the Petitioner firm or the Respondent No.4, it may adopt appropriate proceedings for recovery of the same which I am told have in fact being adopted and the dispute is pending in the Co-operative Court. In view thereof, no relief can be granted to the Applicant in the above Civil Application. The Civil Application is accordingly rejected.

[R.M. SAVANT, J]