

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2635 OF 2015

IN

WRIT PETITION NO. 8836 of 2015

Anil S. Swami and ors.

.. Applicants/Petitioners

vs.

Gajanan Rural Non-Agricultural

Co-operative Credit Society Ltd. and ors. .. Respondents

Mr. J.P. Kharge for the Applicants/Petitioners.

Mr. Vijay Killedar for Respondent No.3.

Mr. S.D. Rayrikar, AGP for Respondent No.4

CORAM : M. S. SONAK, J.

DATE : 05 OCTOBER 2015.

P.C. :-

1] This Civil Application is required to be dismissed. In the first place, the Writ Petition which is already disposed of cannot be reopened by filing an application of this nature. Perhaps the Petitioners would have realised that there is no ground made out for seeking review and therefore, the present application has been styled as application for seeking modification.

2] The petition was dismissed by upholding the order made by the Revisional Authority declining to entertain the Petitioners' Revision Application on the ground that failure on the part of Petitioners to comply with the provisions for deposit of 50% amount of the total amount of recoverable dues, in terms of Section 154(2A)

of the Maharashtra Cooperative Societies, Act (said Act). The Petitioners had contended that the amount deposited by auction purchaser, whose auction, the Petitioners indirectly sought to challenge should itself be treated as compliance with the statutory provisions. This contention was not found to be acceptable.

3] Now, by this Civil Application, the applicants, at this belated stage, offer to deposit 50% of the amount. Such belated offer cannot be accepted at the present stage. The auction purchaser had filed affidavit in rejoinder dated 7 April 2015 in Writ Petition No. 5508 of 2014, in which the auction purchaser had stated that in pursuance of purchase of the Petitioners' property in the auction held in the year 2011, the auction purchaser had already constructed a house, in which the auction purchaser resides alongwith his family members. Even the photographs of such constructed house were annexed to the said affidavit in rejoinder. Therefore, apart from no case having been made out to seek review or modification of the order dated 7 September 2015, this is a case of laches.

4] For the aforesaid reasons, this Civil Application is dismissed. There shall, however, be no order as to costs.

(M. S. SONAK, J.)

CERTIFICATE

**“Certified to be true and correct copy of
original signed Judgment/Order.”**