

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Writ Petition NO. 1678 OF 2016

SHRI. KISHAN SHIVMOHAN VARMA

...Petitioner

Versus

THE DIVISIONAL JOINT REGISTRAR, CO-OPERATIVE SOCIETIES,
KOLHAPUR DIVISION AND ORS.

...Respondents

Mr. SARANG SATISH ARADHYE for the Petitioner

Mr. CHAITANYA NIKTE for the Respondent No. 3

Mr. HIMANSHU KODE for the Respondent No. 2

CORAM: R.M. SAVANT., J
DATED: 18th March, 2016

PC:-

1 The Writ Jurisdiction of this court is invoked against the order dated 20-1-2016 passed by the Divisional Joint Registrar, Co-operative Society, Kolhapur Division, Kolhapur, by which order, the Revision Application filed by the Petitioner being No.54 of 2015, came to be dismissed.

2 The said Revision Application was filed against the notice of auction sale which was issued by the Respondent No.2 herein i.e. Special Recovery Officer, Lord Balaji Co-operative Bank, Madhav Nagar, Tal Miraj, District Sangli. The genesis of the proceedings lie in the recovery of an amount

of Rs.13,30,637/- against the Petitioner in respect of which the Liquidator who was appointed on the Respondent No.2, had initiated proceedings under Section 105(1)(h) of the Maharashtra Co-operative Societies Act. It is pursuant to the said proceedings which crystalised in an amount of Rs.13,30,637/- being due from the Petitioner, that the auction sale proceedings were initiated for recovery of the said amount as the Petitioner had failed to pay the said amount though he was a borrower of the Respondent No.2 Bank. It seems that the auction sale was carried out pursuant to the said notice, however, the Petitioner as indicated above filed a Revision Application against the said notice challenging the said auction notice inter alia on the grounds urged in the said Revision Application.

3 At the interim stage, the Divisional Joint Registrar who was ceased with the Revision Application had refused to stay the said auction proceedings on the ground that the Petitioner had not shown any willingness to pay a substantial amount to stay the proceedings. The refusal of the stay by the Revisionary Authority resulted in the Petitioner filing Writ Petition St No.19606 of 2015 in this Court. This Court had in the earlier round also extended an opportunity to the Petitioner to deposit a substantial amount in the light of the fact that the auction purchasers had already paid the entire amount towards the auction price. However, the Petitioner had shown his inability to deposit any amount and on the day when the Petitioner was heard for admission a

statement was sought to be made on behalf of the Petitioner that amount of Rs.3 lacs would be deposited, which this Court did not find to be adequate and therefore observed that only a pretence of depositing the amount was sought to be made by the Petitioner. This Court has accordingly dismissed the said Writ Petition St No.19606 of 2015 by order dated 3-8-2015. Thereafter the Revision Application was taken up for hearing by the Revisionary Authority and by impugned order dated 20-1-2016, the Revision Application was dismissed. The Revisionary Authority has held that the bidder has deposited the entire bid amount within stipulated period. The Sale Deed is also executed in favour of the bidder and that there is a lack of bonafides on the part of the Petitioner. As indicated above it is the said order dated 20-1-2016 which is taken exception to by way of the above Petition.

4 The above Petition had come up before the Learned Single Judge (M.S.Sonak J.) on 8-2-2015 on which day on the instructions of the Petitioner, the Learned Counsel for the Petitioner made a statement that an amount of Rs.7 lacs would be deposited in Court without prejudice to its rights and contentions in the above Petition. The Learned Judge had accordingly recorded the said statement and directed the Petitioner to deposit the amount on or before 9-3-2016. However, it is undisputed that no amount has been deposited by the Petitioner.

5 In my view, therefore, the conduct of the Petitioner disentitles the
Petitioner to any relief in the Writ Jurisdiction of this Court. The Writ Petition is
accordingly dismissed. All interim orders stand vacated.

(R.M. SAVANT.,J.)