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

WRIT PETITION NO. 2333 OF 2015

Nitin Makhanlal Bose

...Petitioner

Vs.

Mumbai Veedi Tambhaku Vyapari

Sahakari Patpedhi Ltd. & 2 Ors.

...Respondents

Mr. Tejas Dande a/w. Mr. Akshay Tapkir,

Prasanna Dadpe, Bharat Gadvi

i/b. Tejesh Dande & Associates, Advocates for the Petitioners

Mr. Harish R. Pawar, Advocate for Respondent No.1

Mrs. Vaishali Mimbalkar, AGP for Respondent Nos.2 to 4

Mr. Kailash Shetye, Chairman of Respondent present

CORAM : M.S. KARNIK, J.

DATED : 26TH SEPTEMBER, 2016

P.C. :

The challenge in the present Petition is to recovery Certificate dated 16th January, 2014 issued by the Deputy Registrar, Co-operative Society, ie. Respondent No.3 for the amount of Rs. 27,35,608/- and consequently a demand notice under Section 267 of the Maharashtra Land Revenue Code, 1966. This Court has passed an interim order dated 5th March, 2015, which reads thus:

“Not on Board. Mentioned. In view of urgency shown, taken on board.

2. The learned Counsel appearing for the Petitioner, on instructions, willing to deposit Rs.5,00,000/- (Rupees Five lakhs only) in addition to the amount so paid to the contesting Society to the extent of Rs.30 lakhs out of the recoverable amount of about Rs.58 lakhs and desire is also expressed to settle the matter. Therefore, at this stage, in view of the averments made, no further coercive steps be taken based upon notice dated 16th January, 2014, issued by the Tahasildar/Collector, Mumbai City, subject to depositing Rs. 5 lakhs by the next date.

3. Issue notice to Respondent No.1, returnable on 6th April, 2015. Private notice is also permitted by all possible modes, in addition.

4. The parties to act on an authenticated copy of this order.”.

2. It is not in dispute that the amount of Rs.5 lakhs as directed to be deposited by the order dated 5th March, 2015, has been deposited in this Court.

3. Mr. Pawar learned Counsel on behalf of Respondent

No.1 contends that the Petitioner has a remedy under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (hereafter referred to as the said Act) by way of Revision to challenge the impugned order.

4. The Petitioner and Respondent No.1 have agreed to passing of the following order, which in my opinion meets the ends of justice.

1. The Petitioner's statement that he will file the Revision Application under Section 154 of the said Act against the recovery certificate dated 16th January, 2014 before the Divisional Joint Registrar, Co-operative Societies (Mumbai Division) is accepted.

2. Let the Petitioner file the Revision within a period of 3 weeks from today. Upon filing of the Revision the Divisional Joint Registrar, Mumbai Division shall dispose of the said Revision Application within a period

of 3 months from today.

3. Upon filing of the Revision Application the Divisional Joint Registrar, Mumbai Division shall fix a schedule of hearing of the Revision Application.
4. The amount of Rs.5 lakhs along with the accrued interest, if any, which has been deposited in this Court by the Petitioner is allowed to be withdrawn by the Respondent No.1 which shall be appropriated to the loan account of the Petitioner and shall abide the final disposal of the Revision Application.
5. It is expressly made clear that if the Revision Application is not filed within a period of 3 weeks, the Respondent No.1 shall be free to take such steps to enforce Recovery Certificate dated 16th January, 2014. As indicated earlier the present arrangement is made with the consent of the Petitioner and respondent No.1.

The Chairman of the Respondent No.1 Shri Kailash Shetye is present in person.

6. The Writ Petition is disposed of. In view of the above arrangement no further coercive steps be taken against the Petitioners till the decision of the Revision Application.

(M.S. KARNIK, J.)