IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.258 OF 2013

Shri Shyamlal H. Bhatia ... Petitioner
Versus
Divisional Joint Registrar,
Co-operative Society, Mumbai
Division, Mumbai & Ors. ... Respondents

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Mr. Ismail Masikwala i/by Mr. S.A.Khan, Advocates for the Petitioner.
Mr. D.S.Hatle , Advocate for Respondent Nos.2 and 3.
Mr. S.D.Rayrikar, AGP for R.No.1.
Mr. Suhas Deokar, Advocate for R.Nos.4 to 6.

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CORAM : R.M. BORDE, J.

DATE : 20TH SEPTEMBER, 2016

P.C. :

. The Petitioner is objecting to the orders passed in revision application no.197 of 2010 decided by the Divisional Joint Registrar, Co-operative Societies, Bombay. The Petitioner claims that he is the guarantor in respect of the loan borrowed by the Respondent Nos.4 to 6. On perusal of the cause-title, it does appear that the Respondent No.4 is the brother of the Petitioner whereas Respondent Nos.5 and 6 are the son and daughter of the Respondent No.4. The principal contention raised by the Petitioner is that the Respondent-Bank towards the satisfaction of the dues recovered from the principal borrower, on acceptance of amount of Rs.1.10 Crores discharged the principal borrower and has also released the properties belonging to the principal borrower. It is contended that since there are no dues recoverable from the principal borrower, the Petitioner who is the guarantor for the loan secured by the principal borrower stands discharged automatically.

2 Reliance is placed on the judgments in the matter of **Amar Chand v. Bhano and Another** reported in **AIR 1995 Supreme Court 871** as well as judgment of the Punjab & Haryana High Court in the matter of **Shri Kundanmal Dabriwala v. Haryana Financial Corporation and Another** reported in **2013 BC Page 167**. The learned counsel appearing for the Respondent-Bank on instructions states that there is no full and final settlement of dues with the borrowers and that the borrowers have not been discharged of their liability. It is also specifically denied that the properties of the principal borrower, which were mortgaged with the Respondent-Bank have also been released. In view of the statement made, the contention raised by the Petitioner does not appear to be sound. I asked the Petitioner as to whether he is willing to deposit certain amount in this Court. However, the Petitioner has showed disinclination to deposit any amount.

3 In my view, the Petition in exercise of powers conferred under Article 227 of the Constitution of India does not deserve consideration and hence, stands dismissed.

(R.M. BORDE, J.)