

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.5097 of 2014

(Dhiraj s/o Mangalprasad Jaiswal v. The State of Maharashtra, through
Secretary, Department of Co-operation, Mantralaya, Mumbai, and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri S.U. Bhuyar, Advocate for Petitioner.

Shri V.P. Gangane, Assistant Government Pleader for Respondent
Nos.1 and 2.

Shri H.S. Chitale, Advocate for Respondent Nos.3 to 5.

Shri S.S. Buradkar, Advocate for Respondent No.7.

Coram : R.K. Deshpande, J.

Date : 25th February, 2016

There is an order passed under Section 101 of the Maharashtra Co-operative Societies Act, 1960 read with Rule 86F of the Rules framed thereunder for recovery of the amount of Rs.3,59,932/- against the borrower and the guarantor, who are the respondent Nos.6 and 7 in the present petition. The petitioner in this petition is neither the borrower nor the guarantor and he claims his right on the basis of the decree passed by the Civil Court, which is the subject-matter of challenge in Second Appeal No.173 of 2014. Similarly, there is also Regular Civil Suit No.22 of 2015 preferred by the son of the respondent No.7, in which, it is reported that a consent decree has been passed.

In view of this factual position, the respondent-Bank to proceed further in the matter to auction the property and realize the amount in terms of the certificate of recovery issued under Section 101 of the said Act, and it shall be made clear that the sale is subject to the result of Second Appeal No.173 of 2014 and the decree passed in Regular Civil Suit No.22 of 2015.

With these observations, the petition is dismissed. The interim order stands vacated.

Judge.

Lanjewar