

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

WRIT PETITION NO.1153 OF 2016

[M/s. Laxmi Poly Products .vs. Joint Divisional Registrar and others]

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

Court's or Judge's orders

 Shri S.K. Soni, counsel for the petitioner,
 Shri R.M. Daruwala, counsel for the intervenor.

CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATED : MARCH 21, 2016.

By this writ petition, the petitioner challenges the order of the respondent no.1-Joint Divisional Registrar, Cooperative Societies, Nagpur rejecting the application filed by the petitioner for waiver of the pre-deposit under Section 154 of the Maharashtra Cooperative Societies Act.

A recovery certificate was granted in favour of the Bank and against the petitioner, who is a borrower, to the tune of Rs.3,49,00,000/-. Being aggrieved by the order granting recovery certificate, the petitioner challenged the said order before the Revisional Authority under Section 154 of the Act. In view of the provisions of Section 154 (2A) of the Act, a revision cannot be entertained against the recovery certificate unless 50% of the amount of the total recoverable dues is deposited by the revision-applicant. Admittedly, the petitioner did not deposit 50% of the amount of recoverable dues before the Revisional Authority nor did the petitioner pay the 50% of the recoverable dues to the respondent-Bank after the recovery certificate was issued. In this background, the respondent no.1 refused to entertain the revision filed by the petitioner in view of the bar under the provisions of Section 154 (2A) of the Act.

We do not find any illegality with the order of the respondent no.1 so as to interfere with the same in exercise of the writ

jurisdiction. The deposit of 50% of the recoverable dues is mandatory and a revision cannot be entertained unless the dues are paid or deposited by the person against whom the recovery certificate is issued. Admittedly, since the petitioner did not make the deposit of 50% of the recoverable dues, the respondent no.1 refused to entertain the revision. Since there is no provision for granting waiver of the deposit, the respondent no.1 rightly rejected the application made by the petitioner in that regard. The order appears to be just and proper.

In the result, the writ petition fails and is dismissed with no order as to costs.

CIVIL APPLICATION NO.687/2016

With the disposal of the writ petition, the Civil Application stands disposed of.

JUDGE

JUDGE

Gulande