IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3898 OF 2017
WITH
WRIT PETITION NO.4443 OF 2017
(Shaikh Minhaj Nashiroddin and others Vs. Sayyad Nurani Begum Sayyad Musa and others)

Mr.G.K.Thigale (Naik) h/f Mr.D.D.Deshmukh, Advocate for the petitioners.
Mr.V.D.Salunke h/f Mr.G.T.Kore, Advocate for respondent No.1 in WP No.3898/2017.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 10/08/2017

PER COURT :

1. I have heard the learned Advocates for the respective sides with regard to the impugned orders dated 07/09/2016 passed by the learned District Deputy Registrar, Beed and 06/02/2017 passed by the learned Divisional Joint Registrar, Latur.

2. Notwithstanding the submissions of the learned Advocates on several facets of this case, I find that the issue of limitation gains significance u/s 18 of the Maharashtra Money Lending (Regulation) Act, 2014.

3. The admitted factors are as under :-

[a] The date of the sale deed is 04/08/2004.

[b] The application dated 03/02/2014 has been filed u/s 18 by respondent Nos. 1 and 2.

[c] Section 18 of the Act prescribes the limitation period of 15 years w.e.f. 25/06/2014. Prior to the said amendment by the Amendment Act No.23 of 2014, the limitation was 5 years.

4. Post amendment w.e.f. 25/06/2014, Section 18 reads as under :-

"18. Return of immovable property acquired in course of money-lending :- (1) if, on the basis of facts disclosed, during verification under section 16 or inspection under section 17, or by an application from a debtor or otherwise, the District Registrar has reason to believe that any immovable property, which has come in possession of the money-lender by way of sale, mortgage, lease, exchange or otherwise, within a period of [fifteen years] from the date of verification or the inspection or the date of receipt of application from debtor, in the nature of the property offered by the debtor to the money-lender as a security for loan advanced by the money-lender in course of money-lending, the District Registrar may, himself or through an inquiry officer, to be appointed for the purpose, in the manner prescribed, hold further inquiry into the nature of the transaction.

(2) If upon holding the inquiry as per sub-section (1), the District Registrar is satisfied that the immovable property came in possession of the money-lender as a security for loan advanced

by the money-lender during the course of money-lending, the District Registrar may, notwithstanding anything contained in any other law for the time being in force, after recording the reasons, declare the instrument or conveyance as invalid and may order restoration of possession of the property to the debtor who has executed the instrument or conveyance as a security or to his heir or successor, as the case may be.

(3) Before passing an order or giving decision as per sub-section (2), the District Registrar shall give an opportunity to the person concerned to state his objections, if any, within fifteen days from the date of receipt of notice by him and may also give personal hearing, if he so desires.

(4) Any person aggrieved by the order or decision of the District Registrar under sub-section (2) may, within one month from the date of order or decision, appeal to the Divisional Registrar :

Provided that, the Divisional Registrar may admit the appeal after expiry of the period of one month, if the appellant satisfies him that he had sufficient cause for not preferring the appeal within the period.

(5) The order passed by the Divisional Registrar in appeal preferred under sub-section (4) shall be final.

(6) Subject to the appeal provided under sub-section (4), the order passed or decisions given by District Registrar under sub-section (2), shall be sufficient conveyance and it shall be the duty of every officer entrusted with the work relating to maintenance of land records under the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), or under any other law for the time being in force, to give effect to such order in his

records."

5. It cannot be debated that the amendment has not been granted retrospective effect and upto 24/06/2014 after the introduction of this Act on 16/01/2014, the period of taking cognizance of a complaint u/s 18 was 5 years.

6. It is apparent that the cause of action put forth in this petition is not with regard to Section 16 or Section 17 where the statutory authorities are required to verify the records of a money lender or cause an inspection of the property pledged to a money lender.

7. Considering the above, the complaint dated 03/02/2014 was filed beyond the period of 5 years from the date of the sale deed dated 04/08/2004 and was therefore apparently not tenable on the date on which it was filed.

8. Consequentially, this petition is allowed in terms of prayer clause 'B' and 'C'.

9. Learned Advocate for the petitioners submits that pursuant to the above order, WP No.4443/2017 would not survive and can be

disposed of.

10. As such, the said WP No.4443/2017 is disposed of.

11. Learned Advocate for the respondent Nos. 1 and 2 submits that he may consider whether Section 18 is available to the said respondents post amendment. Learned Advocate for the petitioners submits that once the first complaint is rendered untenable on the ground of limitation, the respondents cannot file a second complaint. I need not deal with this aspect. If any party decides to avail of any remedy under the 2014 Act, such proceedings would be considered on their own merits.

(Ravindra V.Ghuge, J.)