

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2276 OF 2014
(M/s Navjeevan Industries Vs. Shri P.K. Anna Patil Janta Co.op.Bank
Ltd., Nandurbar and others)

Mr.V.R.Mundada, Advocate for the petitioner.
Mr.A.P.Basarkar, AGP for State/respondent No.2.
Mr.N.R.Bhavar, Advocate for respondent No.1, 3 and 4.

CORAM : RAVINDRA V. GHUGE, J.)

DATE : 08/12/2017

PER COURT :

1. This matter is heard for some time. Several disputed issues have been raised. The recovery certificate dated 31/12/2013 issued by respondent No.2 u/s 101 of the Maharashtra Co-operative Societies Act, 1960 (For short, MCS Act), is subjected to a challenge in the writ petition.

2. This Court has concluded in Ramesh Chudaman Badgujar Vs. State of Maharashtra and others [2015(2) Mh.L.J. 542] that the remedy u/s 154 (2A) of the said Act is a statutory and efficacious remedy as all contentions of the litigating sides with regard to the recovery certificate u/s 101 of the MCS Act can be considered and dealt with.

3. The writ jurisdiction of the Single Judge Bench of this Court under Article 227 of the Constitution of India is a revisional jurisdiction which is akin to the jurisdiction of the competent authority u/s 154 (2A). The petitioner has deposited an amount of Rs.4,00,000/- in this Court under the direction of this Court dated 18/09/2017 passed in CA No.10575/2017.

4. Since an efficacious and statutory remedy is available to the petitioner, I deem it appropriate to dispose of this petition as well as the civil application by giving liberty to the petitioner to prefer the revision petition before the appropriate authority within a period of 6 (six) weeks from today.

5. Writ Petition No.2276/2014 as well as CA No.10575/2017 stand disposed of with liberty to the petitioner to assail the recovery certificate dated 31/12/2013 before the Divisional Joint Registrar, Nasik Division Nasik u/s 154 (2A) of the M.C.S.Act. The time spent by the petitioner in this Court from 28/02/2014 till the filing of the revision petition within 6 (six) weeks from today, shall be a good ground for condoning the delay, if any.

6. Since the petitioner has deposited an amount of Rs.4,00,000/-

in this Court and on which condition, the petitioner has been protected, the said protection shall continue till the disposal of the revision proceedings. The amount of Rs.4,00,000/- shall be transmitted by the Registry of this Office to the Office of the Divisional Joint Registrar, Nasik Division Nasik. In the event, the respondent Bank, through its Liquidator makes an application for withdrawal of the said amount, the Divisional Joint Registrar shall consider the rival contentions of the parties and shall assess whether the loan amount has been repaid and as to whether any amount is outstanding towards the petitioner. If the amount is outstanding, the concerned authority may permit the withdrawal only to the extent of the amount which is outstanding. This can be done by passing a reasoned order.

7. In so far as the controversy about supplying of documents by the Bank to the petitioner is concerned, the said issue shall be considered by the Divisional Joint Registrar while dealing with the revision petition. Nevertheless, the Bank will be at liberty to supply an additional set of the documents to the petitioner so as to ensure that further delay in the proceedings is avoided.

(RAVINDRA V. GHUGE, J.)