

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 755 OF 2016

Mrs. Shubhada Kurtarkar,
w/o Mr. Prashant S. Kurtarkar,
aged 48 years, business,
Indian National,
r/o. H. No, 73/1,
Venkatesh Niwas,
Shantinagar
Ponda, Goa.
Through her Power of Attorney,
mr. Prashant S. Kurtarkar,
s/o. Late Shripad V. Kurtarkar,
aged 54 years,
business, r/o. H. No. 73/1,
Venkatesh Niwas,
Shantinagar,
Ponda, Goa.

... Petitioner

V e r s u s

1. Goa State Co-operative Bank Ltd.,
Through their Managing Director,
'Sahakar Sankul', Patto Plaza,
EDC Ground, Panaji, Goa.
2. District Magistrate, North Goa,
Magistrate Branch, Collectorate Bldg.,
Panaji, Goa.
3. Mamlatdar of Ponda,
Office of the Mamlatdar of
Ponda, Goa.
4. Mr. A. Surendra Kamath,
Major of age, and his wife,
5. Ms. Shanti Surendra Kamath,
Major of age,

Both r/o. 'Ajanta', Shivnagari,
Farmagudi, Ponda, Goa.
403401.

... Respondents

Mr. Vivek Rodrigues, Advocate for the Petitioner.

Mr. S. R. Rivankar and Mr. Rama Rivankar, Advocates for the Respondent no. 1.

Mr. V. P. Thali, Advocate for the Respondent nos. 4 and 5.

Coram :- **F. M. REIS,**
 NUTAN D. SARDESSAI, JJ.

Date : **19th April, 2017**

ORAL JUDGMENT *(Per F. M. Reis, J.)*

Heard Mr. Vivek Rodrigues, learned Counsel appearing for the Petitioner, Mr. S. R. Rivankar, learned Counsel appearing for the Respondent no. 1 and Mr. V. P. Thali, learned Counsel appearing for the Respondent nos. 4 and 5.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the Respondents, waive service.

3. The above Petition was heard at length and the main contention of the Petitioner was that the Petitioner is entitled to exercise the right of redemption of the mortgage in terms of the provisions of the Transfer of Property Act. The matter was thereafter adjourned to work out the exact amount payable in case the Petitioner was given liberty to exercise the right

of redemption.

4. In this connection, Mr. V. P. Thali, learned Counsel appearing for the Respondent nos. 4 and 5, has also put up his claim with regard to the damages and other expenses incurred by him whilst depositing the earnest money with the Respondent no. 1. Thereafter, the learned Counsel sought time and when the matter was taken up today, the respective Advocates appearing for the Petitioner and the Respondents point out that the matter has been amicably settled. The Petitioner as well as Shri Vivek Rodrigues, the learned Counsel appearing for the Petitioner, the Bank-Director-Respondent no. 1 along with Shri S. R. Rivankar, the learned Counsel appearing for the Bank-Respondent no. 1 and Shri V. P. Thali, learned Counsel appearing for the Respondent nos. 4 and 5, upon instructions, have signed the Minutes of Order and, as such, prayed that the Petition be disposed of in terms of the Minutes of Order which are accepted and are taken on record and marked 'X' for identification.

5. Shri Vivek Rodrigues, learned Counsel appearing for the Petitioner, submits that the Demand Draft for a sum of Rs.85,23,000/- towards payments in terms of the Minutes of the Order, is deposited today with the Respondent no. 1 to meet the amounts referred to in the Minutes of the Order marked 'X' for identification. It is also not disputed that the Demand Draft is in excess by a sum of Rs.20,500/- which the Respondent

no. 1 agreed to refund to the Petitioner within one week.

6. Shri Rivankar, learned Counsel appearing for the Respondent no. 1 pointed out that once the account is closed in terms of the above, the title document and the possession shall be returned to the Petitioner in terms of Section 60 of the Transfer and Property Act.

7. In view of the above, the above Petition stands disposed of in terms of the Minutes of Order which are marked 'X' for identification.

8. Rule is made absolute in the above terms.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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