

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 10729 OF 2015

Shri. Pravin Keshavv Pisat

...Petitioner

Versus

Special Recovery Officer,
The Goregaon Co-operative Urban Bank
Ltd, Through Administration And Ors

...Respondents

....

Mr.C.G. Gavnekar, Advocate for the Petitioner.

Mr. Sagar Talekar, Advocate for Respondents No.1 and 2.

Ms. Vaishali Nimbalkar, AGP, for respondents No.3, 4 and 5.

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CORAM : R. G. KETKAR, J.

DATE : 24th APRIL, 2017

P.C.

1. Not on board. At the request of Mr. Gavnekar taken up in the production board.
2. Heard Mr.C.G. Gavnekar, learned counsel for the petitioner, Mr.Sagar Talekar, learned Counsel for respondents No.1 and 2 and Ms. Vaishali Nimbalkar, learned A.G.P. for respondents No.3, 4 and 5, at length.
3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order

dated 29.8.2012 passed by the Divisional Joint Registrar, Co-operative Societies, Konkan Division, Navi Mumbai in Revision Application No.94/2009. By that order, the Divisional Joint Registrar declined to entertain Revision Application on the ground that the petitioner did not deposit 50% of the amount and thus has not complied the requirements of Section 154(2A) of the Maharashtra Co-operative Societies Act, 1960 (for short, 'Act').

4. Mr. Gavnekar has moved this matter for urgent relief on the ground that respondents No.1 and 2 have proposed to auction the petitioner's house property situate in Mangaon on 26.4.2017. He, therefore, got the papers produced today for urgent interim relief.

5. Rule. Learned Counsel waives service on behalf of the respective respondents. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

6. In support of this Petition, Mr. Gavnekar submitted that respondents No.1 and 2 have obtained recovery certificate

against the petitioner in the sum of Rs.5,63,000/- approximately. The petitioner had paid Rs.5,16,000/- on various dates. Therefore, the Divisional Joint Registrar was not justified in refusing to entertain the revision application for non-compliance of Section 154(2A) of the Act.

7. On the other hand Mr.Talekar submitted that respondents No.1 and 2 have obtained recovery certificate on account of failure on the part of the petitioner in not paying the loan amount under account No.261. The petitioner had paid Rs.2,53,538/-. In other words, the petitioner has not deposited 50% of Rs.5,63,000/- which comes to Rs.2,80,000/- approximately.

8. In view thereof, Mr. Gavnekar submits that without prejudice to the rights and contentions of the parties, the petitioner will deposit Rs.30,000/- in this Court within one week from today. He submits that the auction of petitioner's house property which is scheduled to be conducted on 26.4.2017 may be kept in abeyance. In case the petitioner does not deposit Rs.30,000/- within one week from today in this Court, appropriate orders may be passed saddling expenses on the

petitioner.

9. In view thereof, impugned order is set aside subject to the condition of the petitioner depositing Rs.30,000/- in this Court within one week from today. Revision Application No.94/2009 filed by the petitioner shall stand restored to its original position and the Divisional Joint Registrar will entertain and decide Revision Application on its own merits. Auction in respect of petitioner's house property at Mangaon shall be kept in abeyance. It is made clear that in case Rs.30,000/- is not deposited by the petitioner in this Court within one week from today, the Bank will be at liberty to conduct auction of petitioner's house property and the petitioner will have to bear the expenses for the same. Rule is made absolute in aforesaid terms with no order as to costs.

10. All parties, including the Liquidator of respondent No.2 Bank, to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)