

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3617 OF 2017

Mr. Jitendra Pradeep Jain & Anr.	]	Petitioners
Vs.		
Kanchan Gauri Mahila Co-operative	]	
Credit Society Ltd & Ors.	]	Respondents

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Ms. Saima Ansari, for the petitioners.
Ms. M.S. Bane, A.G.P. (Panel Counsel) for respondents No.2 to 4.

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CORAM : R. G. KETKAR, J.

DATE : 30TH MARCH, 2017.

P.C:

Heard Ms. Saima Ansari, learned Counsel for the petitioners and Ms. M.S. Bane, learned A.G.P for respondents No. 2 to 4 at length.

2. Ms. Ansari seeks leave to amend so as to challenge the order dated 23rd March, 2017. Leave to amend is granted for

annexing order dated 23rd March, 2017. Amendment to be carried out forthwith.

3. By this petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order dated 23rd March, 2017 passed by the Divisional Registrar Co-operative Societies, Kokan Division, Navi Mumbai. By that order, the Revision Application preferred by the petitioners under Section 154 of the Co-operative Societies Act, 1960 [For short 'Act'] was dismissed on the ground that the petitioners did not deposit 50% amount as per Section 154 (2) (A) of the Act.

4. Ms. Ansari submitted that out of total dues of the first respondent to the tune of Rs. 23,57,750/-, the petitioners have paid Rs. 11,69,902.00. She has tendered extract of statement of account and submitted that the petitioners had paid Rs. 11,69,902.00. A perusal of the statement of account shows that respondent No.1 had given credit of Rs. 11,69,902.00. After giving credit, balance amount comes to Rs. 31,42,497/-. While rejecting the Revision Application, the Registrar has observed that the petitioners have not complied

Section 154(2) (A) of the Act while challenging the recovery certificate dated 17th December issued under Section 101 of the Act. A perusal of recovery certificate dated 17th December, 2015 shows that it was issued for recovery of Rs. 29,79,848/- and together with interest @ 13.5% on principal amount of Rs. 23,35,354/- from 1st September, 2015 till such time the amount is realized.

5. Matter was kept today so as to enable Ms. Ansari to take instructions from the petitioners whether the petitioners are willing to deposit remaining amount of Rs. 31,42,497/- Ms. Ansari states that petitioner No.2 Mr. Pradeep Jain is present in the Court. She has tendered photo copy of his Adhaar Card which is taken on record and marked as "X" for identification. Upon taking instructions from him, she states that the petitioners are not in a position to deposit 50% of amount i.e Rs. 31,12,497/- or even 50% of Rs. 29,79,848/- together with interest @ 13.5% on Rs. 23,35,354/- from 1st September, 2015 onwards. The petitioners are ready to hand over possession of the property in respect of which notice dated 29th March, 2017 is issued.

6. Even as on today, the petitioners are not in a position to comply Section 154 (2) (A) of the Act. In view thereof, I find no error in the impugned order. No case is made out for invocation of powers under Article 227 of the Constitution of India. Hence, the petition fails and the same is dismissed. Order accordingly.

[R. G. KETKAR, J.]