

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7837 OF 2017

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. V.S.Kapse with U.A. Mahadik i/b. Fast Track legal for the Petitioner.

Mr. Kirti Kulkarni, AGP for Respondent Nos. 1 and 2.

CORAM : K. K. TATED, J.

DATE : JULY 12, 2017.

P.C. :

. Not on board. At the request of Petitioners matter is taken on board for urgent orders.

2. By this petition under Article 227 of the Constitution of India, Petitioner is challenging the order dated 16th July, 2016 passed by the Authority under Rule 107(11)(D-1)(vi)(A) of the Maharashtra Cooperative Societies Act, 1961 and the notice dated 14th September, 2016 for taking physical possession of the suit property at flat No.12, Arinda Cooperative Housing Society Limited, Section-10, Vashi, New Mumbai.

3. The learned Counsel for the Petitioner submit that the authority had issued a notice 29th June, 2017 stating that they are coming to take the possession of the suit property on 14th July, 2017. He submit that, if the possession is taken nothing survive in the present Petition.

4. Learned Counsel for the Petitioner submit that, they are ready and willing to deposit of Rs.50,00,000/- with the authority within a period of 15 days from today. Hence, the operation and implementation of the impugned order dated 16th July, 2016 and notice dated 29th June, 2017 be stayed.

5. I heard the learned Counsel for the petitioner at length. It is to be noted in the present proceeding, the District Magistrate was passed the order on 16th July, 2016 on an application filed by the Respondent The Jankalyan Sahakari Bank Ltd. Under Rule 107(11)(D-1)(vi)(A) of the Maharashtra Cooperative Societies Rules, 1961. In the said order, it is specifically recorded that earlier the Respondent Bank issued a demand notice dated 5th July, 2005 on the Petitioner as per rule 103(3) and on the basis of Recovery Certificated dated 16th June, 2005, for recovery Rs.2,54,67,911/- (Rupees Two Crore Fifty Four lac Sixty Seven Thousand Nine Hundred &

Eleven only). Hence, This Court called upon the Petitioner, whether the Petitioner is ready and will to deposit Rs.2,50,00,000/- within two weeks from today. He showed Petitioners inability to do so.

6. Considering these facts and as the impugned order was passed on 16th July, 2016, I do not find any urgency at present for grant of ad-interim relief. Hence, the following order.

ORDER

(A) Office is directed to issue notice before admission to the Respondents, returnable after 12 weeks.

(B) In addition to usual mode of service, Petitioner is permitted to serve Respondents by private notice along with copy of Writ Petition either by Registered Post A.D. and/or by hand delivery and file Affidavit of Service to that effect.

(C) Petitioner to remove all office objections within four weeks from today, failing which, the Petition shall stand dismissed without reference back to the Court.

(D) At present no ad-interim relief.

(E) Stand over for 12 weeks.

(K.K.TATED, J.)