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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9379 OF 2014

Jahid Abdul Kadir Patel & Anr.

...Petitioner

Vs.

Bhandari Co-op. Bank Ltd.

...Respondents

Mr. Avinash H. Fatangare a/w. Ms. Vishakha Pandit
for the Petitioner

Ms. Aparna Vhatkar, AGP for the State

Mr. Ajay David for Respondent Nos. 1 & 2

CORAM : M.S. KARNIK, J.

DATED : 25TH JANUARY, 2017

PC. :

Not on Board. On mentioning taken on Board.

The challenge in this Petition by the Petitioner is to an order passed by the Divisional Joint Registrar, Co-operatives Societies, Mumbai Division, Mumbai dismissing the revision filed by the Petitioner on the ground that the Petitioner has not deposited 50% of the total amount of the recoverable dues as is the mandatory requirement of Section 152 of the Maharashtra Co-operative Societies Act, 1960. The said revision arises out of recovery certificate dated 4th January, 2014 for 25% of the claim amount of

Rs.42,31,636/- in favour of the Respondent No.1 and 2.

2. The learned Counsel for the Petitioner submits that he was not heard before the Liquidator when the order dated 12th December, 2012 granting the recovery certificate was passed.

3. The learned Counsel appearing on behalf of the Respondent Nos. 1 & 2 bank fairly states that in view of the difficulty indicated by the Petitioner in depositing the amount of 50%, in the peculiar facts of this case, if the 25% of the amount of Rs.42,31,636/- as mentioned in the recovery certificate is deposited by the Petitioner with the Liquidator within a period of eight weeks from today then the issue of grant of recovery certificate be heard afresh by the Liquidator.

4. The learned Counsel for the Petitioner on instructions states that he is willing to deposit 25% of the claim amount of Rs.42,31,636/- as mentioned in the recovery certificate within a period of eight weeks with the Liquidator of the Bhandari Co-operative Bank Limited, Dadar, Mumbai.

5. The impugned orders dated 4th January, 2014 and the order passed in revision dated 12th August, 2014 therefore, are set aside.

6. The Liquidator to proceed to hear the recovery certificate application afresh on its own merits after giving opportunity to the Petitioner to present his case after the deposit is made and a fresh decision be taken within a period of eight weeks from the date of deposit.

7. It is made clear that in the event the said 25% of the claim amount of Rs.42,31,636/- as mentioned in the recovery certificate is not deposited within a period stipulated herein with the Liquidator, the impugned order dated 4th January, 2014 and order dated 12th August, 2014 would stand revived.

8. I have not expressed any opinion in the merits of the matter. All contentions are kept open.

9. The Petition is disposed of accordingly.

(M.S. KARNIK, J.)