

mm

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

WRIT PETITION NO. 9381 OF 2014

Mahendra Kumar Motilalji Banthia ...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. :

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 an amount of Rs. 9,26,558/- 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 amount of Rs. 3,00,000/- is deposited by the Petitioner with the Liquidator within a period of four 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 a sum of Rs.3,00,000/- within a period of four weeks with the Liquidator of the Bhandari Co-operative Bank Limited, Dadar, Mumbai.

5. The impugned orders dated 20th December, 2012 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 amount of Rs.3,00,000/- is not deposited within a period stipulated herein before the Liquidator, the impugned order dated 20th December, 2012 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.)