IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2754 OF 2017
IN
WRIT PETITION NO.11228 OF 2017

Amjad Ameer Khan Lodhi : Applicant/Intervenor

In the matter between

FIBROCAST
Through its Partners
Laxmi Anawadia and ors : Petitioners.
Versus
The Pen Co-operative Urban Bank Ltd.
Through its Administrative Board : Respondent.

Mr. U B Pandey for the Applicant/Intervenor.
Mr. Vishal Kanade a/w Mr. Akshay Udeshi i/by M/s. Sanjay Udeshi & Co. for the Petitioners.
Mr. Kirit J Hakani a/w Ms. Niyati Hakani for the Respondent.

CORAM : R. M. SAVANT &
SARANG V KOTWAL, JJ.
DATE : 30th November 2017

P.C.

1 The above Civil Application has been filed seeking intervention in the above Writ Petition.

2 The Applicant claims to be the heir of the original owner. The above Writ Petition has been filed by the Petitioners - FIBROCAST challenging the letter dated 22/02/2017 by which letter the Petitioners have been informed that the allotment to them of the auction property is cancelled and that the amount of Rs.54,00,000/- deposited by them as earnest money is

forfeited. It is mentioned in the said letter that the said cancellation was on account of the fact that the Petitioners have not made the payment as per the schedule for payment of the balance consideration for the plot in question.

3 We have in the order passed in the above Writ Petition already adverted to the antecedent facts leading to the said auction. It is not necessary for us to dilate further on the said aspect as the property in question of which the auction has been held was transferred to the Respondent Bank by virtue of the order passed under Section 100 of the Maharashtra Co-operative Societies Act as it was the part of the property covered under the Consent Award passed in the Disputes which the Bank had filed against the borrowers one of whom was the person through whom the Applicant claims.

4 Having regard to the challenge which is raised in the above Writ Petition, Appellant does not have any locus standi. The dispute in the above Writ Petition between the Petitioners and the Respondent Bank is as regards the cancellation of allotment and forfeiture of the earnest money deposit of the Petitioners. Incidentally it is required to be noted that the Dispute filed by the family members of the Applicant being Dispute Nos.80/2016, 81/2016 and 82/2016 have already been dismissed by the Co-operative Court against which we are informed that there is Appeal filed by the heirs of the original borrower Ameer Khan Lodhi. We are also informed that the Applicant is a party to the

Consent Terms in terms of the Consent Award was passed.

5 In that view of the matter the Applicant cannot be allowed to intervene in the above Writ Petition. The above Civil Application is accordingly rejected.

[SARANG V KOTWAL, J] **[R.M.SAVANT, J]**