

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION {L} NO.1987 OF 2017

Haresh M. Patel

.... Petitioner

Vs.

Deputy District Registrar of Co-operative
Societies & Others

.... Respondents

Mr. Rishabh Shah with Ms Shirin Shaikh & Ms Binjal
Samani i/by Raval Shah & Co. for the Petitioner.
Mr. Deepak Jamsandekar for Respondent No.2.

CORAM: R.G. KETKAR, J.

DATE : AUGUST 02, 2017

P.C:

1. Not on board. At the request of Mr. Rishabh Shah, taken up on the production board and called out for admission.
2. Heard Mr. Shah, learned counsel appearing for the petitioner and Mr. Deepak Jamsandekar, learned counsel appearing for respondent No.2.
3. By this petition under Article 226 and 227 of the

Constitution of India, the petitioner has challenged order dated 23-5-2017 passed by respondent No.4/the District Deputy Registrar, by which the revision application filed by the petitioner under Section 154 of the Maharashtra Co-operative Societies Act, 1966 (for short, “the Act”) challenging the recovery certificate, dated 20-5-2016 is dismissed as apparently the petitioner has not deposited with the second respondent/Society 50% of the total amount of recoverable dues, which comes to Rs.14,00,000/- approximately.

4. Mr. Shah submitted that the petitioner is not liable to pay any amount to the second respondent/Society. He submits that, without prejudice to the rights and contentions of the petitioner raised in the revision application, the petitioner will deposit Rs.3,50,000/- in this Court within three weeks from today and further Rs.3,50,000/- within six weeks from today. He further submitted that upon deposit of the amount in this Court, the impugned order may be set aside and the authority may be directed to dispose of the revision application on merits, and while deciding the revision application appropriate order as

regards the deposits made by the petitioner may be passed.

5. Mr. Shah further submitted that the petitioner has challenged the registration of the second respondent by filing proceedings under Section 21A of the Act before the Divisional Joint Registrar on 19-8-2016, being Application No.33 of 2016, and the same is not disposed of till date. The said proceedings may therefore be expedited.

6. Mr. Jamsandekar submitted that respondent No.2 is not served with the proceedings of the revision application. Mr. Shah assures that he will serve the proceedings on him. Mr. Jamsandekar submitted that it may be clarified that in case the petitioner does not deposit Rs.7,00,000/- in this Court within six weeks from today, the impugned order shall stand revived without further reference to the Court.

7. In view of the above, the petition is disposed of in the following terms:-

(i) The petitioner shall deposit in this Court, within three weeks from today, an amount of Rs.3,50,000/- under

intimation in writing to the Advocate for respondent No.2.

(ii) The petitioner shall deposit in this Court, within six weeks from today, further amount of Rs.3,50,000/- under intimation in writing to the Advocate for respondent No.2.

(iii) Upon deposit of Rs.7,00,000/- in this Court within six weeks from today, the impugned order dated 23-5-2017 shall stand set aside and the revision application shall stand restored. However, if the petitioner does not deposit the amount in the aforesaid terms, the impugned order shall stand revived without further reference to the Court.

(iv) In the event of restoration of the revision application, while disposing of the same, the authority will also pass appropriate order in relation to the amount of Rs.7,00,000/- deposited by the petitioner in this Court and the deposit shall abide by the outcome of the revision application.

(v) All contentions of the parties on merits are kept open.

(vi) Liberty is reserved to the petitioner for filing appropriate application before the Divisional Joint Registrar for expeditious disposal of the proceedings under Section 21A of the Act on the ground that the petitioner is a senior citizen, aged about 79 years. If such an application is made, the concerned authority shall pass appropriate order.

(vii) Subject to condition of depositing the amount by the petitioner in the aforesaid terms, the demand notice shall not be given effect to.

8. Mr. Shah states that the petitioner has given notice of today's production of the matter before this Court to respondent Nos.1, 3 and 4. He has tendered an affidavit of service to that effect, which is taken on record and marked "X" for identification.

9. Order accordingly.

(R.G. KETKAR, J.)