

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3157 OF 2015

(RAMESH BABURAOJI PUND & 3 OTHVS.. STATE OF MAH. & 5 OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.S.Giramkar, Advocate for Petitioners.
Ms T.H. Khan, A.G.P. for Respondent No.1.
Shri D.V.Chauhan, Advocate for Respondent Nos. 2 & 3.

CORAM : Z.A.HAQ, J.

DATED : NOVEMBER 03, 2017.

Heard.

2. The petitioners/judgment debtors have challenged the order of the Recovery Officer and the recovery certificate issued by him for recovery of the decretal amount. The contention of the petitioners is that though notice under Section 101 of the Maharashtra Co-operative Societies Act, 1960 was issued, they were not supplied with the documents relied upon by the decree holder bank and inspite of request by an application filed on 20th March, 2015, the documents were not made available to them. The grievance to this effect is made in paragraph 10 of the writ petition. The petitioners have not pointed out the document/ documents, non-supplying of which resulted in prejudice to the petitioners. The petitioners have not pointed out what steps were taken by them to obtain copies of those documents. In the absence of any material on record showing that the petitioners are prejudiced because of non-supply of certain documents., general grounds as raised by the petitioners cannot be accepted.

3. It is undisputed that the petitioners had taken loan and the amount is not repaid.

4. Considering the facts of the case, I see no reason to show any indulgence in the extraordinary writ jurisdiction. The writ petition is **dismissed**.

5. By order passed on 29th May, 2015 this Court granted interim protection to the petitioners on condition that they deposit 50% of the amount as mentioned in the recovery certificate with the respondent No.2 within four weeks. The petitioners failed to deposit the amount and moved civil application in July, 2015 praying that they be permitted to sell the mortgaged property. This application is disposed on 16th September, 2016.

6. On query, the learned advocate for the respondent-bank has submitted that efforts to auction the property are made twice but the Recovery Officer could not get any success. It is surprising that though this Court has not extended protection since June, 2015, the respondent bank has not taken any efforts to recover the amount. The respondent No.2 bank is reminded that it is dealing with public money and it is answerable to the depositors.

The Chairman of the respondent No.2-Bank shall take action against the concerned officers who were responsible for recovery of the amount and submit report on record of this petition till 30th November, 2017.

JUDGE