

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Misc. Civil Application [Review] No.157 of 2016
IN
Writ Petition No. 1884 of 2014 [decided]
[Laxman Sonaji Yeul Vs. The Collector, Buldana & others]

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

Court's or Judge's orders

Mr. P. S. Wathore, Adv., for the applicant – Org. Respdt. No.4 in Writ Petition.
 Mr. G. S. Lahoti, Adv., for non-applicant no.2.
 Mr. A. H. Patil, Adv., for Non-applicant nos. 4 and 5.

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CORAM : A. S. CHANDURKAR, J.

DATE : 03rd November, 2017

This Review Application has been moved by the respondent no.4 in Writ Petition No. 1884 of 2014. By order dated 7th August, 2015, said Writ Petition came to be allowed and the order impugned therein came to be set aside.

It is submitted by the learned counsel for the applicant – respondent no.4 that though notice in the Writ Petition was served on the applicant, the matter was not contested as the applicant was unable to engage a lawyer. It is then submitted that the property in question was disposed of in violation of Rule 107 (5) (n) of the Maharashtra Co-operative Societies Rules, 1961. As per said Rule, the residential house being exempted under Section 60 (c) of the Code of Civil

Procedure, 1908, the same could not have been the subject-matter of auction. It is further submitted that the property was undervalued, thereby causing loss to the applicant.

The application is opposed by the original petitioners by submitting that despite opportunity, the respondent no.4 did not contest the Writ Petition. It is submitted that Rule 107 (5) applies only with regard to movable properties and, therefore, no ground for review has been made out.

After hearing the respective counsel, I do not find any error apparent on the face of record for invoking the review jurisdiction. Rule 107 (5) of the said Rules deals with attachment of movable properties. Merely because Section 60 of the Civil Procedure Code has been referred to therein, those provisions cannot be made applicable in respect of auction of immovable properties. Said Rule refers only to attachment of movable properties.

In view of aforesaid, I am not inclined to exercise review jurisdiction.

Application is, therefore, rejected.

Judge

