

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD***

905 WRIT PETITION NO.12243 OF 2018

Suresh Bhagwat Patharkar and another Petitioners.

Versus

The State of Maharashtra and others. Respondents.

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Advocate for Petitioners : Mr. Deshmukh Rajendra S.

AGP for Respondents 1-4 : Mr. S W Munde

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Coram : N.M. Jamdar, J.

Dated : 11 December 2018

ORAL ORDER :-

By this petition, the petitioners have challenged the concurrent orders passed by the District Deputy Registrar and the order passed under the provisions of the Maharashtra Money Lending Regulation (Ordinance) Act of 2014 (for short hereinafter referred to as the Act of 2014).

2. Upon a complaint filed by the respondent no.5, proceedings were held under the provisions of the Act of 2014. The respondent no.5 has made a grievance that the petitioners were engaged in the business of money lending and in furtherance of the

same, sale deed was executed in the year 2006. It is the case of the respondent no.5 that respondent no.5 was in need of money and he had borrowed certain amount with interest of 5% p.m. The amount was repaid and the property which was given as security to the petitioners was sold by the petitioners to various other persons and the petitioners are thus engaged in the business of money lending and the sale deeds were executed by the petitioners amongst their own family members.

3. The authorities under the Act searched the residence of the petitioners. They found various sale deeds in the house/residence of the petitioners. They were receipts, blank cheques and also various other incriminating documents were found from which the authorities concluded that the petitioners were engaged in regular activities of illegal money lending and of deceiving the innocent and selling out the properties which were taken as security amongst its own group. The authorities treated the matter as serious and accordingly the order was passed directing the petitioners to hand over the properties and cancelling the said sale deed. The petitioners thereafter filed an appeal. The appeal was dismissed on 24 May 2018.

4. The learned counsel for the petitioners firstly submitted that the sale deed in question was executed some time in the year 2006

and the complaint is filed 10 years thereafter. This submission has been considered by both the authorities. It was not only the document in question was entered into. Thereafter, the authorities have found that further sale deeds were executed. Respondent no.5 had stated that they had returned the amount in the year 2008, but various complications were created. The authorities have found that this was not in one transaction, but series of such documents were found. Therefore, because in this case there is some delay, it will not take away the findings of fact recorded by both the authorities.

5. Learned counsel for the petitioners submitted that the parties to whom subsequent sale deeds have been executed were not made parties. Firstly, if the petitioners have sold properties as contended and the petitioners have no concern with the properties, the petition at the behest of the petitioners need not be entertained. Even otherwise, the authorities have recorded the finding that the person to whom the sale deed was executed were themselves the part of the scheme of selling such properties to each other who had taken the security. Learned counsel sought to contend that the documents which were found are not the registered documents. To appreciate this submission, scope of jurisdiction has to be kept in mind. It is not possible to interfere in this concurrent findings of fact.

6. Writ Petition is accordingly rejected.

(*N.M. Jamdar, J.*)

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