

IN THE HIGH COURT OF BOMBAY AT GOA.

MISC. CIVIL APPLICATION NO.844 OF 2018

IN

WRIT PETITION NO.577 OF 2011.

Surendra Appa Shirodkar, ... Applicant.

Versus

Bank of Maharashtra and anr. ... Respondents.

Mr. S. N. Joshi and Ms. S. Bhat, Advocates for the Applicant.

Mr. A. Vijaykumar, Advocate for the Respondents.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 22 October 2018.

P.C.:

This application is filed for recall of the order dated 12 September 2018 and for a direction to restrain the Bank from executing the conveyance in favour of the Respondent no.3, the auction purchaser.

2. The Applicant had defaulted in repayment of loan. Bank put up the property, which is an open plot, for sale in an auction. The auction has concluded long time back and rights are created in favour of the auction purchaser. Same Petitioner had filed another Writ

Petition in respect of other relief wherein a shop was in question. Both petitions were tagged together and heard.

3. Upon hearing the Petitioner, notice was issued in the Petitions. Both the Petitions were adjourned from time to time. Orders were passed on 10 September 2018 thereafter on 12 September 2018, statements made on behalf of the Applicant that amount would be deposited, were recorded. However, inspite of committing to the Court to deposit the amount, amount was not deposited and we had disposed of both the Writ Petitions holding that the Petitioner is not entitled to equity jurisdiction of this Court. On this background this application is filed.

4. The learned Counsel for the Applicant submitted that the applicant was not contactable and he was on high seas on a ship. We find this explanation is not satisfactory at all. The Petitioner has styled himself as an owner of a shop and owner of barge. How he suddenly found employment as an engineer on a ship is not explained. The Petitioner is fully aware of all the details regarding the loan that he had taken. Once he had taken the loan and mortgaged the property, he should have been serious about prosecuting his petition and he should have made efforts to give instructions if really he was interested. On his own showing the Applicant has not shown any interest. In the

application no particulars of the ship, his details of the employment, on which date he boarded the ship, where he travelled have been given, let alone any document demonstrating the same has been placed on record, except the passport. Even otherwise, other family members could have given instructions to the Advocate. The learned Counsel for the Respondent Bank has opposed for grant of the prayer contending that stage has now reached wherein auction purchaser had also been put in possession of the open plot.

5. Therefore, what we find is only an attempt to some how prolong the completion of the auction. In these circumstances, application is rejected.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.