

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 904 OF 2018

Sushila Rajaram Yadav ... Petitioner
V/s.
The Divisional Joint Registrar
Co-operative Societies, Kolhapur Division & Ors. ... Respondents

Mr. Ajit M. Saragave for the Petitioner.
Mr. A.A. Alaspurkar, A.G.P. for the State-Respondent No.1.
Mr. Ajit Kenjale a/w Mr. Sohil Gulabani a/w Mr. Kaustubh Kandpile for
Respondent No.2.
Mr. Chetan G. Patil for Respondent No.5.

**CORAM : A.A. SAYED AND
V.L. ACHLIYA, JJ.**

DATE : 27th JUNE, 2018.

P.C. :

1 The Petition is filed seeking the following prayer :

“A) That this Hon'ble Court be pleased to issue a Writ of certiorari or any other appropriate writ, order or direction in the nature of certiorari thereby quashing and setting aside the impugned auction dated 30th January, 2014, order of sale confirmation dated 29th March 2014 and Sale certificate dated 16th April, 2014 issued in favour of the Respondent No.5;

B) That pending hearing and final disposal of this Writ Petition, this Hon'ble Court be pleased to stay the

operation, implementation and effect of the impugned order of sale confirmation dated 29th March, 2014 and Sale certificate dated 16th April, 2014 issued in favour of the Respondent No.5;

C) Pending hearing and final disposal of this Writ Petition, this Hon'ble Court be pleased to restrain Respondent No.5 herein from creating any third party interest in respect of petitioner's property mentioned and described in proclamation dated 28th December, 2013 Exhibit "A" hereto;

D) Interim and ad-interim relief in terms of prayer clause (B) & (C) above be granted;

E) Pass such further and other reliefs as the nature and circumstances of the case may require."

2 The Recovery Certificate against the Petitioner was issued on 25.01.2001. The property in question was attached on 15.12.2011. The auction sale was conducted on 30.01.2014 in favour of Respondent No.5- Auction Purchaser and the sale certificate issued to the Respondent No.5- Auction Purchaser on 29.03.2014. The Petitioner challenged the said Recovery Certificate by filing Revision Application No.32 of 2014 which was dismissed. The Petitioner filed second Revision Application No.216 of 2014 to challenge the Auction sale dated 30.01.2014 and sale certificate dated 16.04.2014. The said Revision Application was dismissed as the Petitioner failed to deposit 50% of mandatory deposit under Section 154(2A) of the Maharashtra Co-operative Societies Act. The Petitioner thereafter filed Writ

Petition before this Court challenging the said order in the Revision Application No.216 of 2014. The Writ Petition was ultimately withdrawn with liberty to file appropriate proceedings vide order dated 10.07.2017. It is noted that after the Auction sale was conducted, the Petitioner has withdrawn the surplus amount of Rs.4,89,077/- in the year 2015. The Petitioner has not challenged the sale under Rule 107(4) of the Maharashtra Co-operative Societies Act.

3 For all the aforesaid reasons, no case is made out to exercise the extraordinary writ jurisdiction of this Court to entertain the Petition. The Petition is accordingly dismissed. No costs.

(V.L. ACHLIYA, J.)

(A.A. SAYED, J.)