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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4185 OF 2018

Rajan Devrao Thakur .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Datta H. Pawar for the Petitioner.
Mr. A. P. Vanarse, AGP for the State.

CORAM : A. A. SAYED &
RAVINDRA V. GHUGE, JJ.
DATE : 16th APRIL, 2018.

P. C. :

1. This Petition is filed seeking following reliefs:

"(a) this Hon'ble Court be pleased issue writ of mandamus or a writ, direction or order in the nature of the mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India against the Respondents and thereby be pleased to direct the Respondents to consider and implement proposal dated 27.08.2013 for Deposit Matching Scheme sanctioned in favour of the Petitioner;
(b) this Hon'ble Court be pleased issue Writ of Mandamus or a Writ, direction or order in the nature of the Mandamus or any other appropriate Writ, direction or order under Article 226 of the Constitution of India and direct the Respondents to consider the proposal of the Petitioner for Deposit Matching scheme;
(c) this Hon'ble Court be pleased direct the Respondents to not go on with recovery proceedings pending and hearing final disposal of the present Writ Petition;
(d) ad-interim relief in terms of cl-(c) above;
(e) Such other and further order which are necessary in the facts and circumstances of the present matter."

2. The Petitioner is a member of Respondent No.2-The Bhudargad Nagari Sah Credit Soc. Maryadit, Gargoti, presently under liquidation and

a Liquidation Committee has been appointed. The Petitioner had applied for a loan vide application dated 24.05.1997 for an amount of Rs.6.25 lakhs. The Petitioner thereafter defaulted in repayment. According to the Petitioner, he was facing financial issues and could not repay the amount in time. His account was declared as NPA. It is averred that the Petitioner has deposited Rs.3 lakhs with the Respondent-Society. The Petitioner had submitted a proposal dated 25.02.2013 to seek the benefit of deposit matching scheme in terms of order dated 21.02.2013 passed by the Division Bench of this Court in Public Interest Litigation No. 196 of 2004. The deposit matching scheme inter alia provides-

> *"A) 15% simple rate of interest shall be charged from the date of sanction of loan to the Borrower up to the date of liquidation i.e. 13.2.2007.*
>
> *B) The amount payable by the Borrower will be recovered with minimum 15% in cash and balance 85% by way of Deposit Matching Scheme. However, the borrowers should be persuaded to pay maximum amount by way of cash deposit.*
>
> *C) The Borrowers should involve maximum possible number of the small depositors having their amount of deposits from Rs.10,000/- Rs.50,000/- in the Deposit Matching Scheme.*
>
> *D) The amount payable to the concerned depositors with their amount of deposits along with amount of interest (in terms of the concerned FDR) as on 30 September 2002 shall be considered for the Deposit Matching Scheme.*
>
> *E) The Depositors and the Borrowers shall have to produce their written consents for availing the benefit of the said scheme in the form of affidavits.*

F) The Depositors and the Borrowers shall have to fulfill the KYC (Know Your Customer) norms at the time of completion of the transaction of the Deposit Matching Scheme."

3. The claim of the Petitioner was finalised and an amount of Rs.13.65 lakhs was fixed to be payable vide sanction letter dated 27.08.2013 and the Petitioner was accordingly directed to deposit the amount as and by way of final settlement towards the loan transaction. According to the Petitioner, his wife suffered a massive paralytic attack in the month of June, 2013 due to which the Petitioner could not pay the amount. The Respondent-Society held auction of the mortaged property on 13.10.2012, 30.10.2012 and 27.08.2014. However, they did not receive any bids. It is the Petitioner's case that he is ready to settle the loan amount of the Respondent-Society and repay the loan amount as per sanction proposal dated 27.08.2013 given by the Respondent-Society. The Petitioner has averred that he has approached the Liquidation Committee and requested the Committee to consider the proposal of the Petitioner pursuant to the sanction letter dated 27.08.2013. However, he was informed that he would have to approach this Court in view of the order dated 29.10.2013 which has incorporated the following clause in order dated 21.02.2013.

> *"........Any borrower whose proposal is so rejected shall not be entitled to submit any fresh proposal of deposit matching whatsoever."*

4. We have heard the learned Counsel for the Petitioner. We find that

the explanation given by the Petitioner is genuine and acceptable and that therefore he was not able to pay the amount within the prescribed time due to which his proposal for deposit matching was rejected. It is noticed that the mortgaged property was put to auction repeatedly but no bids were received. In the peculiar facts and circumstances of the case, we are satisfied that the Petitioner ought to be granted an opportunity to avail of the deposit matching scheme. Hence, we pass the following order:

i) The Petitioner is permitted to furnish a fresh proposal under the deposit matching scheme which shall be considered by the Liquidation Committee on merits.

ii) The Petition is disposed of accordingly.

[RAVINDRA V. GHUGE, J.] **[A. A. SAYED, J.]**