

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3904 OF 2013

Sou. Ayesha Maqbul Inamdar

..... Petitioner

VERSUS

The Manager,

The Mayani Urban Co-op.Bank Ltd. & Ors. Respondents

Mr.Vishwanath Talkute for the Petitioner.

Mr.Dilip Bodake for the Respondent nos. 1 and 4.

Mr.S.D.Rayrikar, A.G.P. for the State – Respondent nos. 2 and 3.

Mr.Nitin Dhumal for the Respondent no.8.

CORAM : R.D. DHANUKA, J.

DATE : 7th FEBRUARY, 2018

P.C.

The petitioner has raised an issue of maintainability of the petition on the ground of non-compliance of the mandatory provisions under the provisions of Maharashtra Co-operative Societies Act, 1960 read with Rules of 1961. It is the case of the petitioner that the petitioner was not served with any notice to remain present before the authority on 11th October,2010 but was asked to appear on 31st October,2010 whereas the certificate was issued on 30th October,2010.

2. Pursuant to an interim order passed by this court, the petitioner has already deposited a sum of Rs.3 lacs with the respondent bank. Mr.Talkute, learned counsel for the petitioner hands over a demand draft in the sum of Rs.1 lac to the learned counsel for the bank in court

against the said certificate amount. He seeks liberty to challenge the said certificate by filing a revision application under section 154 of the Maharashtra Co-operative Societies Act, 1960. Statement is accepted.

3. In view of the issue of alleged violation of principles of natural justice, I am inclined to give an opportunity to the petitioner to file revision application under section 154 of the Maharashtra Co-operate Societies Act, 1960 and to impugn the said recovery certificate. The revision application shall be filed within two weeks from today. The Revisional Authority shall condone the delay in filing the revision application. In view of the fact that the petitioner has now already deposited a sum of Rs. 4 lacs with the respondent bank without prejudice to the rights and contentions of the petitioner and the respondent no.1, the petitioner is not required to deposit any further amount as a condition precedent under section 154(2A) of the Maharashtra Co-operative Societies Act, 1970. The Revisional Authority shall condone the delay and shall hear the matter on its merits and shall decide the validity of the recovery certificate.

4. It is made clear that if the revision application is not filed within two weeks from today, the order passed by this court to stand vacated without further reference to court. A copy of the revision application shall be served upon the respondent no.1 bank by the petitioner simultaneously.

5. The petitioner is directed to file affidavit in reply to the revision application within two weeks from the date of service of the revision

application and shall serve a copy thereof upon the petitioner's advocate simultaneously.

6. The parties are directed to remain present before the Revisional Authority on 24th March, 2018 at 11.00 a.m.

7. The Bank has no objection if the auction purchaser is also permitted to appear and intervene in the proceedings before the Revisional Authority.

8. The Revisional Authority shall dispose of the revision application within six weeks from the date of the first meeting.

9. Interim order granted by this court to continue till disposal of the revision application and for a period of two weeks thereafter..

10. Writ Petition No. 3904 of 2013 is disposed of. The Revisional Authority shall decide the revision application in accordance with law. No order as to claims.

11. It is made clear that all the amounts deposited by the petitioner so far would be subject to the outcome of the revision application and the deposit shall be treated as without prejudice to the rights and contentions of all the parties.

[R.D. DHANUKA, J.]