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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.36177 OF 2017

WITH
CIVIL APPLICATION NO.40 OF 2018
IN
WRIT PETITION (STAMP) NO.36177 OF 2017

Amritlal Bava	...Petitioner
V/s.	
Divisional Joint Registrar for Co-op. Soc. & Ors.	...Respondents

Ms.Rekha Shinde with Mr.Yogendra Rajgor i/b M/s.Legal Chartered
for the Petitioner.

Mr.S.H. Kankal, A.G.P. for the State – Respondent Nos.1 to 3.

Mr.Ashish Kamat with Mr.Nikhil Rajani i/b M/s.V.Deshpande & Co. for
the Respondent Nos.4 and 5.

CORAM : R.D. DHANUKA, J.
DATE : 10TH JANUARY, 2018.

P.C. :-

1. Mr.Kamat, learned counsel appearing for the respondent nos.4 and 5 raises a preliminary objection of maintainability of this writ petition impugning the recovery certificate dated 12th December, 2013 passed by the respondent no.2 and also impugning the orders dated 28th November, 2017 and 4th December, 2017 passed by the respondent no.1 on the ground that the petitioner has not impugned

the recovery certificate dated 12th December, 2013 under section 154 of the Maharashtra Co-operative Societies Act, 1960. It is submitted that since the recovery certificate has not been impugned before appropriate forum, and cannot be impugned in this writ petition, the orders dated 28th November, 2017 and 4th December, 2017, which are in execution of the recovery certificate dated 12th December, 2013 also cannot be impugned in this writ petition. He placed reliance on the judgment of this Court in case of **The Greater Bombay Co-operative Bank Ltd. & Anr. Vs. Dhillon P. Shah & Ors. AIR 2004. Bombay, 108** in support of his submission. In my view, the said judgment squarely applies to the facts of this case.

2. Learned counsel for the petitioner submits that since the recovery certificate was fraudulently issued by the respondent no.2, the petitioner is entitled to challenge the said recovery certificate in the parallel proceedings. She submits that the petitioner has already filed such application before the respondent no.1, who has not heard the petitioner and has passed further orders which are impugned in this writ petition in terms of prayer clauses (b) and (c).

3. In my view, Mr.Kamat, learned counsel for the respondent nos.4 and 5 is right in his submission that since the recovery certificate cannot be challenged by the petitioner before this Court and could be challenged under section 154 of the Maharashtra Co-

operative Societies Act, 1960, the petitioner cannot challenge the other two orders also which are passed in the execution of the recovery certificate. The petition is not maintainable and is accordingly dismissed. No order as to costs.

4. In view of dismissal of the the writ petition, the Civil Application No.40 of 2018 does not survive and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)