

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1624 OF 2019

SUBHASH NIVRUTTI THORAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.R.D.Bhalerao, Advocate for the petitioner
Mr.A.R.Kale, AGP for the respondents/State

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 08.02.2019

P.C. :-

. Heard learned counsel for the petitioner.

2. The petitioner obtained loan from respondent No.7 Laxmi Rural Non-Agricultural Credit Co-operative Societies Ltd. Rumbhodi. It seems that the loan was obtained for commercial purpose. The petitioner failed to repay the loan. Respondent No.7 approached the competent authority of the State for seeking recovery certificate under the provision of the Co-operative Societies Act. Accordingly, the recovery certificate was issued under Section 101/98-b. The petitioner who could have availed efficacious remedy in challenge to the recovery certificate was silent for considerable length of

period and now the petitioner is approaching this Court when proclamation is published in the local news paper on 25.01.2019. Copy of the same is placed on record at Exh.A. Perusal of this notice/proclamation shows that prior to this notice an exercise of putting the property to auction was undertaken for three times and then ultimately the property is again put to auction on 12.02.2019. The petitioner had approached the District Deputy Registrar of Co-operative Societies submitting before the authority that the petitioner is ready to pay the loan amount subject to permitting the petitioner to pay the amount in installment. Now the Deputy Registrar of Co-operative Societies could not have passed any order on this application/representation as it was beyond the scope for any action to be taken by the District Deputy Registrar of the Co-operative Society. Then the petitioner also approached to the Special Recovery Officer by way of application/representation dated 24.01.2019. Certain grounds are raised in the application/representation to submit that due to natural calamity the petitioner was unable to repay the loan apart from this ground the petitioner is also raised the ground

of ignorance of law. Be that as it may, the Special Recovery Officer on the next day i.e. on 25.01.2019 informed the petitioner that already orders are passed by the competent authorities transferring the property in the name of respondent No.7 and all actions are within the domain of the Special Recovery Officer and said Officer's services are concluded even the files are returned back to respondent No.7. The Special Recovery Officer then informed the petitioner to approach the Society and take his own decision by approaching the society.

3. Considering this fact, we see no reason to cause any indulgence in the petition by entertaining the petition by exercising our power under Article 226 and 227 of the Constitution of India. The learned counsel for the petitioner submitted that the petitioner had submitted representation dated 24.01.2019 to the Special Recovery Officer, the copy of the representation is also submitted to respondent No.7 and respondent No.7 be directed to take decision on the representation if the petitioner approached respondent No.7 in furtherance of representation dated 24.01.2019.

4. Now, this being the only prayer prays by the counsel for the petitioner, we dispose the petition with observations that if respondent No.7 Credit Society has received the representation dated 24.01.2019 and in case the petitioner approached respondent No.7, respondent No.7 on the merits of the representation as well on the backdrop of reply of the Special Recovery Officer dated 25.01.2019 to take appropriate steps to decide the representation/application dated 24.01.2019 expeditiously.

5. The petition is accordingly disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]