

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3296 OF 2018

MAHADEO GENA NAROTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. R.P. Bhumkar.
AGP for Respondent Nos. 1 to 3 : Mr. S.K. Tambe.
Advocate for Respondent No. 4 : Mr M.B. Kolpe.

CORAM : M.S. Karnik, J.
Dated : 05.08.2019

Per Court :

1. By this petition the order passed by the Divisional Joint Registrar, Co-operative Society, Latur in revision application filed by the petitioner, dismissing the same for failure to deposit the 50% of the amount towards the recovery certificate, is challenged. The revision was filed against the order dated 23.12.2004 passed by the Assistant Registrar Co-operative Societies, Taluka Osmanabad, thereby issuing a recovery certificate of Rs. 2,98,378/-. It is stated by the learned counsel for the petitioner that for realization of the dues under the recovery certificate, proceedings have been taken by the bank and the plot belonging to the petitioner which is not the subject matter of the mortgage is put up for sale. Learned counsel for the respondent/bank would submit that the plot in question has already been sold. Learned counsel for the petitioner states that the same is a fraudulent transaction. He submits that he would resort to

appropriate proceedings challenging the alleged sale. The petitioner is always at the liberty to avail of remedies which may be available in law to challenge the action of the bank in respect of the said sale.

2. However, the present petition is in respect of dismissal of revision by the Divisional Joint Registrar challenging the proceedings under Section 101 of the Maharashtra Cooperative Societies Act and the recovery certificate. Learned counsel for the petitioner states that due to some genuine difficulties he was not in position to repay the loan amount which was initially in the sum of Rs.2,00,000/- in the year 2003. The recovery certificate of 23.12.2004 is for Rs. 2,93,378/-. The learned counsel for the petitioner would submit that he has paid the sum of Rs. 1,50,000/- on 01.11.2016. He further, submits that he is willing to pay sum of Rs. 10,80,000/- within the period of three weeks from today to the respondent/bank. According to learned counsel for the respondent the outstanding dues in terms of the recovery certificate is to the tune of Rs. 30,00,000/-. This is disputed by the learned counsel for the petitioner.

3. Be that as it may, the revision filed by the petitioner is dismissed by the Divisional Joint Registrar for failure on the part of the petitioner to pay the statutory deposit of 50%. Considering the fact that and as it is submitted by the learned counsel for the respondent that even the plot belong to the petitioner has

been sold for recovery of the dues and considering that the petitioner is willing to deposit the sum of Rs. 10,80,000/- with the respondent No. 4/ bank within the period of three weeks from today, in my opinion, it would be in the interest of justice if the revision preferred by the petitioner is heard on merits.

4. The revision is filed in the year 2016 and the delay occasioned as there was Civil Revision application pending in this Court where the bank had obtained certain interim reliefs.

5. Subject to the petitioner depositing the sum of Rs. 10,80,000/- with the respondent/Bank within the period of 3 weeks from today, the impugned order is set aside. The petition is allowed in terms of prayer clause 'B'. The parties shall appear before the Divisional Joint Registrar on 29.08.2019 at 11.00 a.m. The Divisional Joint Registrar to hear the revision on its own merits and in accordance with law. Writ Petition is disposed of.

(M.S. Karnik, J.)

S.P.C.