

ISM

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7426 OF 2019

Shri. Suresh Shamrao Patil

.....Petitioner

V/s.

The Divisional Jt. Registrar
Co-Op. Soc. Kolhapur and others

.....Respondents

Mr. Subhash V. Gutte for the Petitioner
Mr. S. L. Babar AGP for the State
Mr. Amit Borkar for respondent no. 4

CORAM : NITIN W. SAMBRE, J.

DATE : AUGUST 1, 2019.

P.C.

Heard. Petitioner suffered recovery proceedings pursuant to provisions of Section 101 of The Maharashtra Co-operative Societies Act, 1960 ('the Act' for short) which order I am informed has attained finality.

2 After auction proceedings pursuant to provisions of Rule 107 of Maharashtra Co-operative Societies Rules, 1961 ('the Rules' for short) was initiated, the petitioner preferred a Revision questioning the same

on the following grounds:

(a) that as contemplated under Sub- Rule 13 & 14 of Rule 107 of the Rules, auction notice of 30 days was not given;

(b) amount of 85% of the bid amount was not deposited within the stipulated period and;

(c) that the auction was approved by authority who was not competent in law to do so.

3 The claim put forth by the petitioner are disputed by the respondent on the following grounds.

(a) Auction notice was served on the petitioner on 20/04/2012 and same was published in the newspaper on 27/05/2012.

(b) Pursuant to auction which was concluded in 2012, already two Sale Deeds are executed and as such, petition has rendered infructuous.

4 Considered rival submissions.

5 The fact that petitioner has not questioned recovery certificate issued under Section 101 of the Act is not disputed and that being so,

same amounts to admitting liability.

6 In the wake of above, it is noticed that there is sufficient compliance of Sub-Rule 11(e) of Rule 107 of the Rules as the respondent issued auction notice to the petitioner on 20/04/2012 and same was published in the newspaper on 27/05/2012. As such, there was more than period of 30 days *qua* date of service of notice and the actual auction.

7 Apart from the fact that entire consideration towards bid amount is received by the respondent, final Sale Deeds are already executed by the respondent of the property in question.

8 The contention of the petitioner that he is ready and willing to deposit 50% of the amount as was adjudicated under Section 101 of the Act, at this stage cannot be accepted, in view of aforesaid developments.

9 Petition lacks merit, stands dismissed.

[NITIN W. SAMBRE, J.]