

BDP-SPS

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6430 OF 2015**

Shankar Namdev Kashid

.....Petitioner.

V/s

Joint Registrar and Others
Respondents.

.....

Mr. S.S. Patwardhan I/b Mr. Chetan Patil for the Petitioner.

Mr. Dilip Bodake for Respondent Nos. 2 and 3.

Mr. B.A. Lawate for Respondent No.4.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 27, 2019

P.C.:-

1] This Court has already dismissed Writ Petition No.4717-2016 wherein challenge to Recovery Certificate under Section 101 of the Maharashtra Co-operative Societies Act (For short "the Act") was raised. The Petitioners/borrowers preferred a Revision before the Divisional Joint Registrar, Co-operative Societies under Section 154 of the Act as, according to them, the proceedings taken out for execution, pursuant to the

Recovery Certificate under Section 101, are contrary to the Scheme provided under Rule 107 of the Rules. The said Revision is dismissed on the ground that the Petitioners have failed to deposit 50% of the amount with the Respondents-Society as provided under sub-section (2A) of Section 154 of the Act.

2] Once this Court, while dismissing Writ Petition No.4717 of 2016, has already held that the Petitioners were served with the notice of hearing and they have chosen to remain absent, non-compliance of sub-section (2A) of Section 154 of the Act, as relied upon by Divisional Joint Registrar for dismissing the Revision, appears to be in tune with the provisions of law.

3] Apart from above, it is the contention of the Petitioners that of-set price of the property which was auctioned was fixed Rs 25 lakhs, whereas same was sold at Rs 17.25 lakhs. When called upon, Petitioners are unable to demonstrate that on the date of auction or subsequent

thereto, they were armed with an amount of Rs 17.25 lakhs. Even today, when Petitioners are called upon to deposit the amount, Petitioners are seeking time to arrange the amount to the tune of Rs 17.25 lakhs for which property is already stood transferred by virtue of Sale Certificate executed in favour of Respondent No.4.

4] In that view of the matter, no case for interference is made out. Petition fails and the same is dismissed.

(NITIN W. SAMBRE, J.)