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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.152 OF 2018
IN
WRIT PETITION NO.2046 OF 2017

WITH
CIVIL APPLICATION NO.463 OF 2018
IN
REVIEW PETITION NO.152 OF 2018
IN
WRIT PETITION NO.2046 OF 2017

Sureshkumar Pandey

...Review
...Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr.Ashish S. Gaikwad for the Applicant in the Civil Application /
Review Petitioner.

Ms.P.J. Gavhane, A.G.P. for the State – Respondent Nos.1 and 2.

Mr.Dilip Bodake for the Respondent No.3.

CORAM : R.D. DHANUKA, J.
DATE : 29TH JANUARY, 2019.

P.C. :-

1. By this review petition, the review petitioner (original respondent no.3) seeks recall of the order dated 13th March, 2018 passed by this Court in Writ Petition No.2046 of 2017 by which order this Court had allowed the writ petition filed by the respondent no.3 –

Bank impugning the order passed by the learned Minister under section 154 of the Maharashtra Co-operative Societies Act, 1960 (for short "the said Act") and setting aside the said order.

2. The review petition is filed on the ground that under section 154 of the said Act against the order of the learned Joint Registrar, the revision application was maintainable under section 154 of the said Act before the learned Minister. In the review petition, various grounds are raised on the merits of various orders.

3. A perusal of the order dated 13th March, 2018 passed by this court clearly indicates that the said order was passed not only on the basis that the revision application was not maintainable but also on merits. Learned counsel for the review petitioner does not dispute that his client had borrowed various amounts from the respondent no.3 - Bank and had committed default. The recovery certificate issued by the learned Assistant Registrar in favour of the Bank was not challenged admittedly by the review petitioner. The property was thereafter auctioned by the Special Recovery Officer under the provisions of the Maharashtra Co-operative Societies Act, 1960 read with Rules. The auction of the property was also not challenged by the review petitioner.

4. After hearing all the parties including the review petitioner, this Court allowed the said writ petition. This Court directed the Bank

to put the property to auction and to pay the surplus amount, if any, to the review petitioner.

5. In this review petition, the review petitioner had filed a Civil Application No.463 of 2018. Learned counsel for the applicant in the said civil application rendered an undertaking to this Court that his client will deposit an amount of Rs.20,00,000/- with the respondent no.3 herein within two weeks from the date of the order dated 29th October, 2018 without prejudice to the rights and contentions of his client. This Court accepted the said undertaking rendered by the learned counsel for the applicant. In view of the said undertaking, learned counsel for the Bank made a statement before this Court that the Bank would not proceed with the warrant of possession which was the subject matter of the civil application till next date.

6. The matter was fully argued by the learned counsel for the review petitioner without disclosing the order dated 29th October, 2018 passed by this Court and also that his client had committed breach of the said undertaking rendered before this Court. Learned Associate of this Court invited my attention to the said order passed by this Court. When this Court asked the learned counsel for the review petitioner as to why this undertaking was not brought to the notice of this court, he had no answer. He however, conceded that his client could not deposit the said amount with the Bank within the

time prescribed or even thereafter. This conduct on the part of the review petitioner is totally deprecated.

7. There is no error apparent on the face of the order. No case is made out for recall of the order passed by this Court. The review petition is accordingly dismissed with costs quantified at Rs.25,000/- which shall be paid by the review petitioner to the respondent no.3 - Bank within one week from today.

8. In view of dismissal of the review petition, nothing survives in the civil application and the same is dismissed.

(R.D. DHANUKA, J.)