

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION (ST.) NO.15700 OF 2019
IN
WRIT PETITION NO.11151 OF 2015

Dr. Swapnil B. Pandit	...	Applicant
In the matter between		
The C.K.P. Co-operative Bank Limited	...	Petitioner
Vs.		
The Divisional Joint Registrar and others	...	Respondents

Mr. Yuvraj Narvankar i/b. Mr. Vasant Kadam for Applicant.
Mr. Kunal Bhanage a/w. Mr. Akshay Pawar for Respondent No.1 in C.A.
and for Original Petitioner.
Mr. P. V. Nelson Rajan for Respondents-State.

CORAM : UJJAL BHUYAN, J.
DATE : NOVEMBER 18, 2019

P.C. :

Heard Mr. Narvankar, learned counsel i/b. Mr. Kadam, learned counsel for the applicant and Mr. Bhanage, learned counsel for respondent No.1.

2. This civil application has been filed by the applicant Dr. Swapnil B. Pandit seeking a direction to the Divisional Joint Registrar of Co-operative Societies, Mumbai Division, Mumbai to handover the keys of flat No.S/04, second floor, building No.29, Savitribai Phule Co-operative Housing Society Limited, Near Rankala Park, Kolhapur to the applicant.

3. The related Writ Petition No.11151 of 2015 was disposed of on 24.11.2015 on agreed terms. Order dated 24.11.2015 is extracted hereunder:

“1] This petition is disposed of on the basis of the following agreed order.

(A) The impugned order dated 05 November 2015 is hereby set aside.

(B) Respondent Nos. 3 to 5 agree and undertake to lock and reseal the suit premises i.e. Flat No. S/04, Second Floor, Building No. 29, Savitribai Phule Flat Type Co-operative Housing Society Ltd., Near Rankala Park, Kolhapur 416010 and to deposit the keys with the Divisional Joint Registrar, Co-operative Societies, Mumbai Division on or before 27 November 2015 by 3.00 p.m. A necessary statement of compliance shall be filed before the said Divisional Joint Registrar.

(C) The Divisional Joint Registrar shall hear the submissions in revision application No. 158 of 2015 on 30 November 2015, which is the date for final hearing and thereafter, dispose of the main revision application finally within a period of four weeks.

(D) The Divisional Joint Registrar shall fix a date for pronouncement of judgment and order, so that all the parties or their representatives are present at the time of pronouncement of the order.

2] It is clarified that this Court has not examined merits of the matter and therefore all contentions of all parties are left open to be decided by the Divisional Joint Registrar.

3] All concerned to act on basis of authenticated copy of this order.”

4. It is submitted that respondent No.1 had issued auction sale notice for sale of the aforesaid flat on 06.06.2018. This was impugned by the defaulter M/s. Arya Wines Pvt. Ltd. in Writ Petition (St.) No.23086 of 2018. This Court by order dated 14.08.2018 dismissed the writ petition with costs.

5. It is submitted that thereafter auction sale of the flat took place in which applicant participated. Amount offered by the applicant was accepted by respondent No.1 whereafter the entire amount has been paid by the applicant to respondent No.1, which has been acknowledged by learned counsel for respondent No.1.

5.1. However, notwithstanding deposit of the auction sale money, Divisional Joint Registrar of Co-operative Societies, Mumbai Division, Mumbai has not handed over the keys of the flat in

question to the applicant by taking recourse to the order dated 24.11.2015, more particularly clause (B) thereof, as extracted above.

6. Hence, this Civil Application.

7. After hearing learned counsel for the parties and on due consideration, Divisional Joint Registrar of Co-operative Societies, Mumbai Division, Mumbai is directed to handover the keys of the flat in question to the applicant forthwith and at any rate, within a period of 7 days from the date of receipt of an authenticated copy of this order.

8. Civil Application is disposed of.

(UJJAL BHUYAN, J.)

Minal Parab