

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

WRIT PETITION NO.9526 OF 2019

The Deccan Merchants Co-op Bank Ltd. ... Petitioner
V/s.

The State of Maharashtra and anr. ... Respondents

Mr.Shivaji Lanke i/by Mr.Vijaykumar B. Dighe for the
Petitioner.

Mr.N.C.Walimbe, AGP for respondent No.1

Mr.Kishor S. Patil for respondent No.2.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 08, 2019.

P.C.:-

1. Considering the subject matter of the writ petition and the order that is proposed to be passed, issuance of formal notice is considered not necessary and the case is taken up for disposal at this stage itself.

2. Heard Mr.Shivaji Lanke, learned counsel for the petitioner; Mr.N.C.Walimbe, learned AGP for respondent No.1 and Mr.Kishor S. Patil, learned counsel for respondent No.2.

3. Petitioner is a Co-operative Bank registered and functioning under the provisions of Maharashtra Co-operative Societies Act, 1960. According to the petitioner, respondent No.2 had availed a term loan which he failed to repay. Petitioner initiated recovery proceeding under Section 101 of the aforesaid Act pursuant to which, Recovery Certificate dated 8th February, 2017 was issued by the Deputy Registrar of Co-operative Societies.

4. After issuance of the Recovery Certificate, the contesting parties engaged in a series of litigation which may not be necessary to be dealt with in detail for the purpose of the present order. Suffice it to say, petitioner had issued sale notice dated 28th June, 2019 for auction sale of the property of respondent No.2, possession of which is stated to have been taken over by the petitioner. Against such sale notice, respondent No.2 preferred revision application before Divisional Joint Registrar of Co-operative Societies, Mumbai Division, Mumbai, under Section 154 of the Maharashtra Co-

operative Societies Act, 1960, which has been registered as Revision Application No.330 of 2019. Alongwith the revision application respondent No.2 also filed an application for stay.

5. Revisional Authority after hearing the matter passed the impugned order dated 24th July, 2019 staying the auction sale of the property, fixing 5th November, 2019, as the date of hearing.

6. On a query by the court, Mr.Patil, learned counsel for respondent No.2 submits that as petitioner was absent on 5th November, 2019, hearing of the revision application has been re-fixed on 14th November, 2019.

7. Since hearing of the revision application is scheduled on 14th November, 2019, court is not inclined to interfere with the interim order passed by the Revisional Authority staying the auction sale.

8. Since both the contesting parties are before the

court, let them appear before the Revisional Authority on 14th November, 2019. Thereafter, Revisional Authority shall hear the revision application filed by respondent No.2 in accordance with law. All contentions of the respective parties are kept open.

9. Writ Petition is disposed of.

(UJJAL BHUYAN, J.)

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