

BDP-SPS

Bharat
D. Pandit
Digitally signed by
Bharat D. Pandit
Date: 2019.08.31
12:18:14 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4717 OF 2016**

Shankar Namdev Kashid
and Others

.... Petitioners.

V/s

Divisional Joint Registrar
Cooperative Societies, Kolhapur
Division, Kolhapur and Others

..... Respondents.

Mr. S.S. Patwardhan I/b Mr. Chetan Patil for the Petitioners.
Mr. Dilip Bodake for Respondent No.3.
Mr. B.A. Lawate for Respondent No.4.
Mr. A.B. Kadam, AGP for Respondent Nos. 1 and 2.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 27, 2019

P.C.:-

1] Recovery Certificate issued under section 101 of the Maharashtra Co-operative Societies Act, 1960 (For short “the Act”) on 28/10/2013 is a subject matter of challenge.

2] The challenge rests on the following grounds viz (a) that neither the notice nor an opportunity was offered to the Petitioners

who are borrowers and as such, there is non-compliance of the provisions of Chapter VIIIA of the Maharashtra Co-operative Societies Rules, 1961 (For Short “the Rules”) and **(b)** that the order lacks reasons and as such, same is not sustainable.

3] While countering the same, the learned Counsel for Respondent Nos. 3 and 4 submit that Recovery Certificate is already taken to its logical end, as Sale Certificate has been issued in favour of Respondent No.4, after property of the Petitioners is auctioned. Apart from above, according to them, notices were served on the Petitioners. However, they have chosen not to appear before the said authority.

4] Perused the affidavit-in-reply filed by Respondent Nos. 1 and 2. The Assistant Registrar, Co-operative Societies in para 4 of his affidavit, has categorically stated that notices were issued and served to the borrowers and both the guarantors, of the hearing dated 04/10/2013. One of the guarantors and borrowers have received the notices which were served through Registered Post AD. There is no

counter to the aforesaid submissions made on behalf of the authority.

5] Apart from above, affidavit of Respondent No.3-Bank in categorical terms speaks of service of notice on the Petitioners.

6] In that view of the matter, contention of the Petitioners that there is non-compliance of the provisions of Chapter VIIIA of the Rules, does not hold any substance. As such, Petition lacks merit and the same is dismissed.

(NITIN W. SAMBRE, J.)