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17WP4261.20

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

17 WRIT PETITION NO. 4261 OF 2020

MANGAL BALAJI BOINWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. C.D. Biradar.
AGP for Respondent Nos. 1 to 7 : Mr. S.N. Morampalle.

CORAM : MANGESH S. PATIL, J.
DATE : 19.10.2020

Per Court :

Heard learned Advocate Mr. Biradar.

2. The petitioner is impugning the action initiated on the basis of an order passed by the Collector, Latur, pursuant to the provisions of Section 156 of the Maharashtra Cooperative Societies Act, 1960 read with the Rules framed thereunder. The respondent No. 7 is her husband. He was indebted to the respondent No. 4 Employees Credit Cooperative Society. Pursuant to a debt incurred by him the certificate under Section 101 of the Act was issued. Since the respondent No. 7 failed to clear the dues, by the impugned order, the Collector has directed the house property standing in his name bearing plot No. 28 out of city survey No. 33 bearing Gram Panchayat Nos. 786 of Village

Shivamkheda Khurd, Taluka Ahmedpur, District Latur, to be attached and taken possession of for satisfaction of the debt.

3. Learned Advocate for the petitioner submits that the petitioner was married to the respondent No. 7 in the year 1999. In terms of the oral agreement, her father had promised to give the property in dispute to the respondent No. 7. Pursuant to such understanding, her father executed a sale deed on 22.07.2002 whereunder the property was purportedly sold to the respondent No. 7. Pursuant to the Government Resolution dated 28.11.2003, even her name was recorded in the Gram Panchayat record jointly with the respondent No. 7. Subsequently, a matrimonial dispute arose. In order to settle the dispute, a compromise was arrived at on 16.08.2006 and under a deed of compromise, the respondent No. 7 in presence of the witnesses, agreed not to illtreat her and even agreed not to sell the property in dispute. It is pursuant to such compromise that she continued to occupy the property. She herself is not indebted to the Society and she being in possession under her own right, she cannot be dispossessed by the impugned order. The learned Advocate also cites a decision in the case of Natrajan Chandran Vs. Apna Sahakari Bank Ltd. and others, 2006 (5) Mah.L.J. 778.

4. I have carefully gone through the papers and the decision cited. Admittedly, the respondent No. 7 was indebted to the Employees Credit Cooperative Society and he having failed to clear the dues, the Society obtained the certificate under Section 101 of the Maharashtra Cooperative Societies Act for recovery of an amount Rs. 4,54,325/- as on the date of the certificate issued on 29.07.2015.

5. Pursuant thereto the respondent No. 6 / Special Recovery Officer passed an order under Section 107 of the Rules framed under the Act of 1960 which ultimately led to the passing of the impugned order by the Collector.

6. Admittedly, it is the respondent No. 7 who has derived the title to the property on the basis of the registered sale deed. There is no document creating any right in favour of the petitioner. Even if there was some dispute and the respondent No. 7 had agreed not to alienate the property, the Deed of Compromise will not constitute a document of title. It also does not constitute any gift and would at the most help in proving some admissions and some commitments, which cannot confer upon the petitioner any right, title or interest in the property in dispute.

7. The respondent No. 7 is the debtor against whom the certificate has been issued under Section 101 and the impugned action is initiated affecting the property in dispute in which the petitioner is residing. She has no *locus standi* and right to object to the recovery and the impugned order.

8. The decision cited by the learned advocate, in the facts and circumstances, is not applicable to the matter in hand, inasmuch as, the petitioner therein was admittedly the owner of the property which is not the fact situation in the matter in hand rather it is converse. Therefore, the petitioner is not entitled to derive any benefit from this decision.

9. The Writ Petition is dismissed in limine.

(MANGESH S. PATIL, J.)