

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

WRIT PETITION (ST.) NO. 2490 OF 2020

Madhura Sachin Pendse

...Petitioner

Vs.

CKP Co-op. Bank Ltd. & Ors.

...Respondents

.....

Ganesh Sovani for the Petitioner.

Bhupesh Samant for Respondent No.1.

Mahesh Joshi for Respondent Nos. 3 and 4.

.....

**CORAM : K. K. TATED &
SARANG V. KOTWAL, J.J.
DATE : FEBRUARY 11, 2020.**

PC.:

1. Today the Matter is shown on production board pursuant to the praecipe filed by the Advocate for Petitioners for urgent orders.

2. By this Writ Petition under Article 226 of the Constitution of India, the Petitioner is seeking order of direction against Respondent No.2 not to dispossess the Petitioner from flat No. 102, Gurukrupa Darshan, CTS No. 883 to 889, Nandivali, Ayre Village, Dombivali (E)-421201.

3. Learned Counsel for the Petitioner submits that, in the present proceeding, the authority issued recovery certificate under Section 101 of the Maharashtra Co-operative Society Act, 1960 on 07th August,

2012 for sum of Rs. 6,27,26,154/- with interest. He submits that, the Petitioner purchased the suit flat from borrower on 07th August, 2012 itself. He submits that thereafter, Respondent No.1 issued public notice for auction after following the due process of law on 2nd July, 2014. At that time, the Petitioner learned that Respondent No.1 is going to take possession of the suit flat. Hence, he addressed letter dated 23rd January, 2014 to Respondent No.1-Bank. The Learned Counsel for the Petitioner submits that Learned District Magistrate, Thane passed the order in applications filed by Respondent-Bank under Rule 107 (11)(D-1)(IV)(A) of the Maharashtra Co-operative Society Act, 1961 for taking possession of the suit flat with the help of police, if necessary. He submits that Respondent No.1 may take possession of the suit flat at any moment. Hence, there is urgency.

4. Learned Counsel for the Petitioner submits that, the Petitioner also preferred application dated 06th January, 2020 before the Learned District Magistrate, Thane in application no. 110 of 2018 and 111 of 2018 for review of the order dated 12th April, 2019 passed by the Learned District Magistrate directing the Tahsildar Kalyan to take possession of the property. He submits that the said application is also pending.

5. When this court called upon the Advocate for Petitioner to take instructions within how much time they are ready to deposit the amount, he submits that, he requires some time to take instructions to that effect.

6. Considering these facts, following order is passed:

- a. At the request of the Petitioner, matter to appear on board on 05th March, 2020.
- b. It is made clear that, this Court has not granted any ad-interim relief in favour of the Petitioner at present.
- c. Petitioner is directed to complete service on remaining Respondents by private notice and file affidavit of service to that effect on or before 29th February, 2020.

Stand over to 5th March, 2020.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)