

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 WRIT PETITION NO.7548 OF 2021

HARIOM RATANLAL AGRAWAL
VERSUS
THE STATE OF MAHARASHTRA THR ITS SECRETARY AND
OTHERS

...
Advocate for Petitioner : Mr. Sawant Amol S.
AGP for Respondents/State: Mr. K. B. Jadhavar
...

CORAM : AVINASH G. GHAROTE, J.

DATE : 12th July, 2021

PER COURT :

. Heard Mr. Sawant learned counsel for the petitioner.

2. The ground raised is, that the petitioner was not given appropriate opportunity, by the Revisional Court while deciding the Revision No.70/2018. It is also contended, that though the record was called for, in spite of the same not having been received, the Revisional Authority went on ahead to decide the matter.

3. The above contentions, have to be considered, in the background of the factual position of the matter. It is not disputed by

Mr. Sawant learned counsel for the petitioner, that a loan was taken by the petitioner, from the respondent No.7/Society, for the security of which, the agricultural land of the petitioner was mortgaged. It is also an admitted position, that on account of non-payment of the loan, an RRC dated 13/9/2015 has been issued by the respondent No.4 under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as “MCS Act”), which is more than Rupees One Crore. Mr. Sawant, learned counsel does not dispute the liability of the petitioner, nor does he dispute that the property is liable to be sold for recovery of the amount. His contention is, that though Section 107 (11) (f) of MCS Act requires the notice of the sale proclamation to be given to the petitioner, which was with an intention, that the petitioner would be in a better position to procure appropriate and commensurate offers for the property to be auctioned, the opportunity for the same has been denied on account of the non-service of notice. A specific query was put to Mr. Sawant learned counsel for the petitioner, as to whether as on date, the petitioner has any offer in respect of the mortgaged property, to which he expressed his inability. This being so, considering that the impugned order is dated 17/03/2021, sufficient time was available to the petitioner, to procure appropriate offers and make a statement in that regard before this Court. However that has not been done,

which therefore results in nullifying the above contention. Insofar as the plea that an opportunity has not been given, the impugned order dated 17/03/2021, indicates, that the matter was listed for hearing on 25/01/2021 on which date, the counsel for the petitioner, advocate Madhuri Badgujar was present who was directed to place her written notes of argument on record, which was not done so till 02/03/2021, on which date, the petitioner and his counsel were absent. Considering that the proceedings were pending since long, the Revisional Authority, proceeded ahead in the absence of the petitioner and his counsel, which cannot be faulted with. The further contention that though the record was called but was not received, in spite of which, the Revisional Authority proceeded to decide the proceedings, also does not appear to me, to be of any substance as all the necessary facts, were contained, in impugned order dated 22/05/2018, passed by the District Deputy Registrar.

4. The apprehension by Mr. Sawant learned counsel for the petitioner, that the property would be sold at a lesser price than what it is valued at, on the ground, that no offers were received, in spite of the publication of the sale proclamation and the auction notice thrice, is not well founded, as there is nothing on record to indicate what would be the price according to the petitioner, at which the property

could be sold in auction. The petition is, therefore without merits and is dismissed.

(AVINASH G. GHAROTE, J.)

Sameer