Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.93/2021

QUADROS MOTO CORP CO.,
THR. ITS PROPRIETORS,
EVENCIO DE MENINO. …. Petitioner.

Versus

THE AUTHORIZED
OFFICER, FOR THE GOA
URBAN CO-OPERATIVE
BANK LTD. AND ANR. …... Respondents.

Mr. Nigel da Costa Frias, Advocate for the Petitioner.

Coram : T.V. Nalawade &
Smt. Bharati H. Dangre, JJ.

Date : 17th February, 2021.

ORAL ORDER : (Per T.V. NALAWADE, J.)

The Petition is filed for giving directions to Respondent No.1-the Recovery Officer of the Co-operative Bank to see that one month's time is given to the Petitioner to regularise the loan accounts by using the One Time Settlement Scheme. The relief is claimed for quashing and setting aside the Memorandum dated 28/1/2021 bearing reference No.NAM/SAL/SRFAESI/24/20/457 issued by the Mamlatdar and Revenue Recovery Officer of Salcete, Margao, Goa. An interim relief is claimed in respect of the same order of the Mamlatdar and stay is sought. Heard the learned Counsel for the

Petitioner.

2. This Court has carefully gone through the Memorandum dated 28/1/2021 of the Office of Mamlatdar. The Memorandum shows that immovable property like plot surveyed under Chalta No.18 of P.T. Sheet No.59 admeasuring 482, second plot surveyed under Chalta No.7 of P.T. Sheet No.57 admeasuring 999 and third plot surveyed under Chalta No.21 of P.T. Sheet No.58 admeasuring 221 sq. metres, total area 1702 known as “CUPANGALLI” Agalli, Margao, is the property in respect of which the memorandum is prepared. The order is made by the Mamlatdar against the Petitioner to hand over vacant possession of the aforesaid property, which are secured assets. It is made clear that if the possession is not handed over, the possession will be taken by the Bank, through its Officer, on 17/2/2021 at 10.30 a.m. with the help of Police protection.

3. The aforesaid memorandum has the background of filing of matters before the Assistant Registrar of Co-operative Societies. Copies of the Judgments are there showing that decisions are given in favour of the Bank and recovery of the amounts due on the loan accounts of the Petitioner is given. Two such proceedings were filed before the Assistant Registrar of Co-operative Societies bearing case Nos. ARCS/HQIII/CC/ABN/SAL/1958/19/353 and ARCS/HQIII/CC/ABN/SAL/1957/19/352. In one proceedings, there is a decision

in respect of entitlement of the Bank to recover an amount of ₹ 2,10,99,536/- and in the second proceedings, there is a decision in respect of an amount of ₹ 22,98,015/- . On these amounts, interest at the rate of 14.5 % and 15.5 % respectively is also payable. Those decision were given by the Assistant Registrar of Co-operative Societies in the month of March, 2020. The submissions made and the record do not show that the decisions of the Assistant Registrar of Co-operative Societies were challenged by the Petitioner. Thus, these orders have attained finality.

4. Under the Co-operative Societies Act, machinery is provided for execution of the orders of aforesaid nature. The submissions made and the record show that the orders were taken for execution to the Mamlatdar and in that proceedings, the Memorandum of the aforesaid nature came to be issued. The submissions made show that opportunity was given to make submissions and take objections and only after that, the Memorandum was issued.

5. The submissions made and the record show that a proposal was made by the Petitioner to the Bank for accepting the amount offered by him under the One Time Settlement Scheme. He had offered ₹ 2.40 crores. The communications of the Bank show that the Bank informed that the amount needs to be deposited first, as per the

order made by the aforesaid authority. The Bank has taken steps under the provisions of the Secularisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. The communication dated 22/01/2020 shows that the request made to grant 6 months' time to regularise the accounts was not accepted and the Petitioner was informed that the Bank wanted to go ahead with the execution proceedings and take possession of the secured assets.

6. In the present Petition, direction is sought against the Respondent Bank to consider the proposal of One Time Settlement. That proposal is already rejected by the Bank. This Court is not expected to give directions of the nature like mentioned above. Further the submission made for the Petitioner is that the Petitioner has approached a third party for finance and it may collect money from the said financier and deposit it with the bank, cannot be accepted. The so called sanction order of Duttkrupa Corporation dated 10/02/2021 shows that the security offered for taking loan is Shop No.9, 10 and Garage No.5 (Vespa Store), situated at Adarsha Chodankar Residency, Agalli, Fatarda, Opp. H.P. Petrol Pump, Margao-Goa. These shops are also demanded by the Bank under Section 13(12) of the Secularization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. Thus, there

is no meaning in the proposal given by the Petitioner of the aforesaid nature.

7. In view of the aforesaid circumstances and the fact that the orders were obtained long back, but no concrete steps were taken to see that the properties are saved from attachment and sale, this Court holds that the present proceedings is only an attempt to protract the things. Any order given by this Court will make things more complicated and that is what the Petitioner wants. This Court holds that no relief can be granted for the Petitioner.

8. The Petition stands dismissed.

Smt. Bharati H. Dangre, J. ***T.V. Nalawade, J.***

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