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

WRIT PETITION NO. 14580 OF 2022

Mr. Harish Chandra Shukla

... Petitioner.

Versus

State of Maharashtra & Ors.

... Respondents.

Mr. Sanjay Anabhawane, Advocate for the Petitioner.

Mrs. Rupali M. Shinde, AGP for the State-Respondent Nos. 1, 3, 4 & 5.

Mr. Nikhil Rajani, Advocate for Respondent No. 2.

CORAM : R.D. DHANUKA & S.G. DIGE, JJ.

DATE : NOVEMBER 29, 2022.

P.C. :-

1. Rule. Learned AGP waives service of rule on behalf of the State – respondent nos. 1, 3, 4 & 5. Learned counsel for the respondent no.2 waives service of rule on behalf of the respondent no.2. Rule is made returnable forthwith, by consent of the parties.

2. By this petition filed under Article 226 of the Constitution of India, the Petitioner seeks writ of mandamus to issue directions to Respondent No. 2 for handing over peaceful and

vacant possession of the auctioned property, described under prayer (b) to the petition, to the petitioner and for various other reliefs.

3. The Petitioner is an auction purchaser, who has purchased the subject property on 03.03.2014 in the sale proclaimed by respondent no. 2 under the provisions of the Maharashtra Co-operative Societies Act, 1960 read with the Rules thereunder. The petitioner submits that he has paid entire sale consideration to the respondent no. 2 but the respondent no. 2 has failed to issue the sale certificate in favour of the petitioner in respect of the said auctioned purchase property.

4. On 16th November, 2019, the respondent no. 2 obtained orders from the respondent no.3- District Magistrate of Thane, directing the respondent no.4- Tahsildar of Thane to take possession of the auctioned property. We are informed that though the respondent no. 4 made two attempts to take possession of the auctioned property in compliance with the order dated 16th November, 2019 passed by the District Magistrate of Thane, the possession has not been given by the bank till date to the Petitioner.

5. We direct the respondent no. 4- Tahsildar to execute the order dated 16.11.2019 passed by the respondent no.3 - District Magistrate within a period of four weeks from today and take possession of the auctioned property. If necessary, the respondent no. 4 shall take forcible possession of the auctioned property with the assistance of the police. If any police protection is sought by the respondent no.4, the concerned police station shall provide such police protection to the Tahsildar on payment of requisite charges, if any. If the fees/charges are required to be paid by the Tahsildar, the same shall be borne by the Petitioner.

6. After receipt of the possession of the property by the respondent no. 4 from the borrower, the vacant and peaceful possession of the property shall be handed over to the petitioner by the respondent no. 4 within one week from the date of taking the possession.

7. The writ petition is allowed in the aforesaid terms.

8. So far as other prayers regarding recovery of

compensation and interest is concerned, the petitioner is at liberty to file appropriate proceedings as may be permissible in law.

9. The parties and the authority concerned shall act on an authenticated copy of this order, duly issued by the registry of this court.

10. The writ petition is disposed of accordingly.

(S. G. DIGE, J.)

(R.D. DHANUKA, J.)

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