

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 906 OF 2018

Shri Shivshankar Singh

vs.

Managing Director, Shri Pramod Kajodiwal Agrawal and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S. M. Bhagde, Advocate for petitioner.

Mr. K. L. Dharmadhikari, AGP for respondent Nos.4 & 5.

CORAM : MANISH PITALE J.

DATE : 01/07/2022

By this petition, the petitioner has approached this Court in peculiar circumstances. The petitioner had approached the District Consumer Forum, Nagpur by filing a consumer complaint against respondent No.1 and others. By order dated 25/01/2012, the complaint was partly allowed and the opposite parties were directed to pay a certain sum along with interest to the petitioner.

2. Thereafter, the petitioner was constrained to file the application under Section 25 of the Consumer Protect Act, 1986. On the said application, by order dated 22/01/2015, the Consumer Forum directed the Tahsildar to take appropriate action for

attachment and auction of the property belonging to respondent No.1 in order to satisfy the order passed by the Consumer Forum in favour of the petitioner. In pursuance thereof, the property belonging to respondent No.1 was to be auctioned but, by letter dated 23/06/2017, the Tahsildar informed the petitioner that as per letter dated 05/05/2017 received from the Official Liquidator of this Court in the Bench at Nagpur, appropriate orders may be secured from the Court for proceeding with the auction. This prompted the petitioner to approach this Court by way of the present writ petition, seeking direction to the Tahsildar to proceed with the auction as per order dated 22/01/2015, passed by the Consumer Forum in the application filed under Section 25 of the said Act.

3. Notices were issued in the present writ petition.

4. A letter was received from respondent No.1 who was lodged in jail in the context of some other proceedings. In the said letter it was claimed by respondent No.1 that the said property may be belonging to some other person and that it was not his personal property. In this backdrop, on 13/12/2019, this Court directed that the copy of the

letter be given to the learned Additional Government Pleader appearing in the matter for taking appropriate instructions in the matter. Thereafter, affidavit was sought from the authorities in respect of the said claim made by respondent No.1. It is significant that the respondent No.6 i.e. Official Liquidator filed a written submission before this Court, categorically stating that the property in question did not belong to the company of which the respondent No.1 was the Managing Director and instead it was the individual property of respondent No.1.

5. The respondent Nos.4 and 5 i.e. the Collector and Tahsildar filed an affidavit-in-reply dated 21/01/2020, before this Court categorically stating that upon perusal of the records, it was found that property in question was indeed purchased by the respondent No.1 and that the record of rights also show that respondent No.1 was indeed owner of the said property.

6. In view of the above, it becomes clear that now there ought not to be any impediment for the respondent No.5 – Tahsildar to proceed with the auction of the said property, in terms of the order dated 22/01/2015 passed by the District Consumer

Forum, in order to satisfy the order passed in favour of the petitioner for recovery of amount.

7. Accordingly, the writ petition is allowed in terms of prayer clause (ii) which reads as follows :-

“(ii) To direct Tahsildar to proceed with the order of Consumer Court passed on dated 22/01/2015 in EA-50/2014 for recovery amount of Rs.12,35,231/- by way of sale/Auction of property given in the petition and enforcement of order dated 25/01/2012 in complaint No. 288/2011 and hand over the amount to the petitioner.”

JUDGE