

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

WRIT PETITION NO. 6263 OF 2022

Ahinsa Urban Credit Co-operative Society__ Vs. __Manish Damodhar Lakhani & ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.R.D.Hajare, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 11/10/2022

1] Heard Mr. Hajare, learned counsel for the petitioner.

2] The petition challenges the order below Exh.37, an application filed by the petitioner to implead itself in RCS No. 6/2018, which is a suit for specific performance filed by Respondent No.1 against the Respondent No.2 and others, on the ground that the property in question has been mortgaged by Respondent No.2 in favour of the petitioner society, which application has been rejected by the learned Trial Court.

3] Mr. Hajare, learned counsel for the petitioner contends that since the property in question already stood mortgaged to the petitioner by the registered Mortgage Deed dated 4.5.2016 and in respect of which RRC has already has been issued by the District Deputy Registrar, Co-operative Societies, Buldhana, on

6.5.2022 (pg 82) the petitioner is a necessary party in the suit for specific performance. Another ground is raised that since the property is subjudice in RCS No. 6/2018, that would adversely affect the rights of the petitioner under the RRC.

4] I am afraid, I am not able to concede to this argument, for the reason that a suit for specific performance is limited to the enforcement of the terms of the agreement, between the parties to the agreement and nothing else. In the instant case, admittedly the petitioner is not a party to the agreement in question and therefore is not a proper nor/or a necessary party to decide the grant of relief of specific performance, which is the subject matter of RCS No. 6/2018.

5] So also the pendency of RCS No. 6/2018 in no way precludes the enforcement of the claim of the petitioner-society under the RRC dated 6.5.2022. That being the position, I do not see any reason to interfere in the impugned order. The petition is dismissed. No costs.

JUDGE

Rvjalit