IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 **WRIT PETITION NO.1839 OF 2023**

RAJESH PREMSING RATHOD
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR AND ANOTHER

...
Advocate for Petitioner : Ms. P.G. Sontakke h/f. Sontakke Gajanan K.
AGP for Respondents/State : Mr. S.B. Yawalkar
Advocate for R/2 : Mr. S.G. Kawade
...

CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 12th July, 2023

P.C. :-

1. On 23.06.2023, we had passed the following order:

> *"1. Respondent No.2 is present in the Court. An affidavit in reply dated 23.06.2023 is tendered on record. Leave to correct the errors in the affidavit.*
>
> *2. The learned Advocate for the Petitioner submits that certain manipulated documents have been placed before the Court.*
>
> *3. In view of the above statement, we grant permission to the Petitioner to file a rejoinder affidavit, on or before 05.07.2023.*
>
> *4. List this petition on 12.07.2023 in the same category.*
>
> *5. Presence of Respondent No.2 on the next date is dispensed with."*

2. After hearing the concerned advocates for the respective sides and upon perusing **नमुना नं. 8 चा उतारा करास पात्र असलेल्या जमीनी यांची सन 2014 ते 2015 सालाबद्यलची आकारणी यादी (असेसमेन्ट),** it is obvious that the Petitioner has taken a loan of Rupees Twenty Lakhs with the Bank of Maharashtra. We have also perused the No Dues Certificate issued by the C.E.O. of Nagar Panchayat, Mantha dated 06.10.2015 indicating that there is no outstanding tax amount to be recovered from the Petitioner as she has cleared the entire property tax.

3. The learned advocate representing the Chief Officer, Nagar Panchayat, Mantha relies upon the affidavit in reply dated 23.06.2023 and specifically draws our attention to paragraph nos.4 to 7 as under:

> *"4) I say and submit that, on 28.07.2022 the present petitioner had filed representation before the office of the answering respondent and thereby stating that, to release of mortgaged property bearing No. 1994/1 adm. 97.11 sq.mtrs, and further to clear the property documents of the present petitioner. The petitioner further stated that, the cash credit loan account has been closed and the property may kindly be released of mortgaged. Thereafter, the petitioner also filed representation on 19.12.2022 and stated therein the above mentioned facts.*
>
> *5) I say and submit that, after received the above mentioned representations, the office bearers of the answering respondent seen the assessment register of the said property no. 1994/11which is in the name of the petitioner and it clearly reveals that, there was no any entry of mortgage charge in the said assessment register in pursuant to the cash credit loan sanctioned by the Bank of Maharashtra and also it was not having any documents as well as mortgage deed from the office of answering respondent.*

6) I say and submit that, thereafter, on 25.08.2022 the then Chief Officer, has issued letter to the present petitioner and stated that, the petitioner is owner of property no. 1994/1 and there is no any entry of charge of loan in the original assessment register and therefore, there is no question that, to remove the charge of loan amount. The office of the answering respondent also issued the certified copy of the original assessment register of property no. 1994/1which shows that, there is no any entry of charge of loan and the said letter dated 25.08.2022 received by the present petitioner. Thereafter, again he filed representation dated 19.12.2022 and in pursuant to the said representation, the then Chief Officer also sent the said letter on 24.02.2023 through employee of the office, but same was not taken by the petitioner, therefore, again sent the letter through speed post to the present petitioner, but he refused to take the said letter on so many times which shows the remarks of post office. Copies of the letter dated 25.08.2022 and 24.02.2023 along with copy of the assessment register and report of post office are annexed herewith and marked as Exhibit-"R-1" Colly.

7) I say and submit that, on 27.07.2022 the Bank of Maharashtra through its Manager, also issued letter to the office of answering respondent and in pursuant to the said letter, the then Chief Officer issued letter to the Bank Manager on 24.02.2023 and informant that, there was no any entry of mortgage charge in the said assessment register in pursuant to the cash credit loan sanctioned by the Bank. Copy of the letter dated 24.02.2023 with endorsement is annexed herewith and marked as Exhibit-"R-2".”

4. The learned advocate then draws our attention to a communication by the Nagar Panchayat, to the Petitioner dated 25.08.2022 and the further communication dated 24.02.2023, clearly indicating to the Petitioner that there is no charge created on his house property no.1994/1 with reference to the loan amount of Rupees Twenty Lakhs with the Bank of Maharashtra. The learned advocate for the Petitioner clarifies that the

Petitioner is the owner of house no.1994/1 and has nothing to do with the property house nos.1994/1/1 or 921/1/6. The learned advocate for the Municipal Council further submits that a PTR card would be issued to the Petitioner within fourteen days from today.

5. In view of the above and since the statements are made on the basis of the affidavits in reply filed by the C.E.O., the grievance of the Petitioner is redressed. The petition is worked out. The PTR card would be issued to the Petitioner on or before 25.07.2023.

6. In view of the above, **this petition is disposed off**.

[Y.G. KHOBRAGADE, J.] **[RAVINDRA V. GHUGE, J.]**

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