

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6969 OF 2022

DIGAMBAR MUKTAJI THORAT
VERSUS
DATTATRAYA MUKTAJI THORAT AND OTHERS

Mr. Ankush N. Nagargoje, Advocate for the Petitioner.
Mr. Prashant R. Nangare, Advocate for the Respondent No.2.

CORAM : SHARMILA U. DESHMUKH, J.
DATED : FEBRUARY 23, 2023.

PER COURT :

1. The challenge in the petition is to the order dated 01.04.2022, allowing the Misc.Civil Application No.88 of 2018 filed by the Respondent No.2, whereby the order of the Trial Court dated 02.02.2018 passed below Exh.5 and 14 in RCS No.54 of 2018 is quashed and set aside.

2. By the dated 02.02.2018, the auction to be held by the District Credit Society Federation Ltd. in respect of property 1/B i.e. "Grampanchayat No.559 (old city survey no.1308) consisting of two floored building at Mouje Parner, Tal.Parner" was restrained till further orders of the Court.

3. Without going into the merits of the case, the petition can be disposed of in view of the consensus which has been arrived

between the counsels for the petitioner No.1 and the respondent No.2, as it is now agreed that half share of the property 1/B which was mortgaged by Respondent No.1 can be put into auction and half share of property 1/B which is owned and in possession of the petitioner will not be the subject matter of the auction. It is agreed by the learned counsel for the Respondent No.2 that what was mortgaged was half share of respondent No.1 in property 1/B and as such, there is no question of putting half share of the petitioner in property 1/B to auction.

4. In light of the above consensus, the impugned order dated 01.04.2022 is hereby quashed and set aside and the order of the Trial Court dated 02.02.2018 stands modified as under:

- (1) The application is partly allowed.
- (2) The auction to be held by the District Credit Society Federation Ltd Ahmednagar in respect of the property B1 i.e. Grampanchayat No.559 (old city survey no.1308) consisting of two floored building at Mouje Parner, Tal.Parner, in respect of the half share of the property 1/B of Grampanchayat No.559 (old city survey no.1308) belonging to the petitioner is restrained till further orders of the Trial Court.

5. Writ Petition stands disposed of accordingly. No costs.

(SHARMILA U. DESHMUKH, J.)