

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

WRIT PETITION NO. 12949 OF 2023

Bahubali Zilla Nagari Sahakari

Patsanstha Maryadit

... Petitioner

versus

State of Maharashtra and Others

... Respondents

WITH

WRIT PETITION NO. 10308 OF 2018

WITH

INTERIM APPLICATION NO. 7939 OF 2023

IN

WRIT PETITION NO. 10308 OF 2018

Riyaz Bashir Mulla

... Petitioner

versus

The State of Maharashtra and Ors.

... Respondents

.....

Mr. Manoj A. Patil for the Petitioner in WP No. 12949 of 2023 and for Respondent No. 7 in WP No. 10308 of 2018.

Mr. Nagesh Y. Chavan for the Petitioner in WP No. 10308 of 2018 and for Respondent No. 7 in WP No. 12949 of 2023.

Mr. B.V. Samant, AGP for Respondent No. 1 to -5 -State in WP No. 12949 of 2023.

Mr. S.H. Kankal, AGP for Respondent Nos. 1 to 5 in WP No. 10308 of 2018.

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**CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.**

DATE : 17 OCTOBER 2023

P.C.:

These Writ Petitions are filed towards achieving the same end, that is, directing the State Authorities to exercise the power under

section 100(2) of the Maharashtra Co-operative Societies Act, 1960.

2. Writ Petition No.12949 of 2023 is filed by the Petitioner, the Patsanstha, and Writ Petition No. 10308 of 2018 is filed by an individual.

3. It is the case of the Petitioner, the Patsanstha, that the Petitioner had auctioned the property, that is, land of 25R of Gat No. 606 situated at Village Karnal, Taluka- Miraj, District -Sangli for recovery of the loan of a borrower and the same was purchased by the Auction Purchaser, that is, the Petitioner in Writ Petition No. 10308 of 2018. First, the Petition by the Auction Purchaser was filed and thereafter, the Patsanstha has filed its Petition on 6 October 2023.

4. The learned Counsel for the Petitioner-Patsanstha points out that the Suit for partition has been decreed and the nature of the property in question has undergone a change. That being the position and what is sought is a writ of mandamus, it would be appropriate that the Petitioner makes an application based on a changed circumstances to Respondent Nos. 2 to 5 for the prayers that they have sought in this Petition.

5. The learned Counsel for the Petitioner-Patsanstha states that necessary application would be made to Respondent Nos. 2 to 5 in view of the changed circumstances. Once such application is made,

the concerned Respondent-Authority will look into the same and proceed as per law to pass such appropriate order as the Authority deems fit in the law and facts.

6. Considering the fact that the issue involved is of auction for recovery of the loan, if an application is made by the Patsanstha, the concerned Respondents will look into the same and take necessary action expeditiously.

7. The Writ Petitions are accordingly disposed of.

8. Further, if any further order is passed in respect of decree of the partition by the Court, the same be brought to the notice of the Respondent-Authority so as to ensure that any direction or action taken by Respondent Nos. 2 to 5 is not in conflict or contrary to the final order passed.

(MANJUSHA DESHPANDE, J.) (NITIN JAMDAR, J.)