

Chaitali Ekke

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

WRIT PETITION NO. 6221 OF 2023

M/S Jijau Developers Thr. Sonali Ramdas
Ghawate And Anr.

...Petitioners

Versus

State Of Maha. And Ors

...Respondents

....

Mr. Sumit V. Khaire, for Petitioners.

Ms. B.V. Samant, AGP for State-Respondent Nos. 1 & 2.

Mr. Prafulla Shah i/b Ms. Gunjan Shah, for Respondent Nos. 3 & 4.

....

CORAM : RAJESH S. PATIL, J.

VACATION COURT

DATED : 12th MAY 2023

P.C.:

1 Advocate for Petitioner tenders undertaking of Petitioner No.2 and a photo copy of undertaking of Petitioner No.2's wife Sonali Ramdas Ghawate who is the Petitioner No.1. Since Petitioner No.1 is not present in court, Advocate for Petitioners state that her undertaking was prepared at Shirur, District Pune. He further undertakes that the original undertakings of Petitioner No.1 will be filed in this court within a period of three working days from today.

2 The undertaking of Petitioner No.2 is taken on record and marked "X" for identification. For ease of reference, the said undertaking of Petitioner No.2 is reproduced hereinbelow :

3. We, i.e. the Petitioners No. 1 & 2 defaulted on paying of the said loan amount and hence say that the bank has obtained Certificate dated 06.06.2022 u/s. 101 of the Maharashtra Co-operative Societies Act, 1960 against us.

4. We say that we have filed the present petition challenging the said Certificate dated 06.06.22 issued u/Section 101 of MCS Act and one Revision No. 284/2022 is also pending in the Divisional Joint Registrar Court, Pune against the same 101 certificate.

5. We say that we are aware that the outstanding amount as of today i.e. 12.05.2023 is Rs. 8,37,04,098/- (Rupees Eight Crores Thirty-Seven Lakhs Four Thousand and Ninety-Eight only) and it will be Rs. 8,48,07,634/- (Rupees Eight Crores Forty-Eight Lakhs Seven Thousand Six Hundred Thirty Four only) by 31.05.2023.

6. We say and submit that we are filing the present undertaking on our own accord that we are ready to deposit the total outstanding amount as on 31.05.2023 i.e. Rs. 8, 48,07,634/- on or before 31.05.2023 against the loan account no. 12/773/79 standing in the name of M/s. Jijau Developers.

7. We undertake that we shall deposit the said outstanding amount as mentioned in clause 6 above on or before 31.05.2023 failing which we



shall handover possession of the total mortgaged property to the Respondent bank i.e. Sharad Co-op. Bank Ltd. immediately without any further recourse or reference to any Court. It is clarified that mortgaged property shall mean the total building including all galas except the galas which are sold by consent of the Respondent Bank.

8. ^T We submit that in order to arrange for the payment of outstanding amount as mentioned in Clause 6 above, we shall seek the NOC of the Respondent Bank for sale of each and every gala from the mortgaged property. The Respondent Bank shall be a confirming party to the said sale of any of the Galas from the mortgaged property and the total consideration received from the sale of the gala shall be credited in the loan account of M/s. Ijau Developers with the Respondent Bank. We understand that the Respondent Bank shall issue the NOC for the sale of the said gala subject to it being satisfied that the gala is not being sold below the prevailing government value.

9. ^T We agree and undertake that we shall also withdraw all the proceedings before the DRT, Pune i.e. S.A. No. 130/2022 and Co-operative authorities being Revision No. 284/2022 and Revision No. 122/2023 with respect to the said subject property and the subject loan account on or before 31.05.2023 and we shall not file any fresh application, petition, and/or any other case with respect to the said Certificate no. III of MCS



Act dated 06.06.2022. Possession Notice and Attachment Notice before any court of law.

¹
10 We say that we have not filed any other petition in the Hon'ble High Court, the Hon'ble Supreme Court and/or before any other authorities as on today except the pending proceedings as mentioned in Clause 9.

Whatever Stated Herein Above Is True and Correct to The Best Of My Knowledge And Belief And Hence I Have Signed Herein Below.

Solemnly Affirmed at Mumbai

ON THIS 12TH DAY OF MAY 2023




RAMDAS NAMDEV GHAWATE
Deponent



BEFORE ME


Sonali

SONALI RAMESH GHAWATE
Deponent

Adv. N. Chitambar
Notary Govt Of India
Regd. No. 15070 MUMBAI (MS)
404-405, 4th Floor, Laxmi House,
180/182, Near Central Camera Bldg.,
D.N. Road, Fort, Mumbai - 400001.

NOTED & REGISTERED

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Dated 12 MAY 2023





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3 Petitioners by this undertaking had admitted that a sum of Rs. 8,48,07,634/- would be outstanding by 31.05.2023. Petitioners have further stated that they desire to sale the mortgaged property after obtaining NOC from the Bank-Respondent No.3. He stated that after disposing of the property in any case before 31.05.2023, they will pay the entire amount of Rs. 8,48,07,634/- to the Bank-Respondent No.3. They further state that in case they are not able to dispose of the

mortgaged property by 31.05.2023, they will hand over the possession of the entire mortgaged property to the Bank-Respondent No.3, immediately without any further recourse or reference to any court. They also further state that for clarification that mortgaged property means the total building including all galas except the galas which are sold earlier by consent of Bank-Respondent No.3. The photo copy of undertaking of Petitioner No.1 is taken on record and marked “Y” for identification. The undertaking tendered by Petitioners is the undertaking given to this court. Petitioner No.2 who is present in the court and Advocate of both Petitioners state that his client will comply with the undertakings given today. Petitioners have in clause 9 of the undertaking agreed that they shall withdraw all the proceedings before the DRT, Pune i.e. S.A. No. 130 of 2022, Revision No. 284 of 2022 and Revision No. 122 of 2023, pending before the Cooperative Authorities by 31.05.2023. They further undertake that they will not file any further fresh proceedings in respect of certificate under section 101 of Maharashtra Co-operative Societies Act, possession notice and attachment notice before any court of law.

4 They have also further undertake and state on both that they have not filed any other proceeding/Petition in this Hon’ble Court / Supreme Court or any other authorities as of today, except pending proceedings as mentioned in clause 9 of the undertaking filed

today.

5 In view of the same, Writ Petition is hereby disposed off.

(RAJESH S. PATIL, J.)