



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**1052 CIVIL APPLICATION NO. 8277 OF 2024
IN WP/2633/2019**

DNYANDEO SABAJI WAPHARE

VERSUS

THE HONBLE STATE MINISTER COOPERATION MARKETING AND TEXTILE
DEPT AND OTHERS

Mr.R.N. Dhorde, Sr. Advocate a/w. Mr. P.S.Dighe and Mr. S.S.
Dudhane i/b. Mr. V.R. Dhorde, Advocate for the petitioner.
Mr.V.S. Badakh, AGP for the respondent-State.
Mr.V.H. Dighe, Advocate for respondent Nos. 4 and 6.
Mr.K.J. Suryawanshi, Advocate for respondent Nos. 6A & 6B.

CORAM : KISHORE C. SANT, J.
DATE : 05.09.2024

PC :-

01. Heard learned Advocates for the parties. This application is filed seeking modification of order passed by this Court dated 26.02.2019 and to permit the applicant to sell land Gat No.1022 admeasuring 3 H 62 R situated at village Dhawalpuri, Tq. Parner, Dist. Ahmednagar. This Court by order dated 26.02.2019 directed not to take coercive action on the basis of order dated 11.11.2018 passed by the Hon'ble Minister for State (Cooperation Department) in Revision No. 294 of 2018. The writ petition is still

pending. Now an application is moved by the applicant as all the properties of the present applicant are attached. The applicant is in jail as he is convicted for the offences under the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act and the Indian Penal Code and criminal appeal against the same is pending. It is submission of the applicant that in the order passed in criminal appeal by the Division Bench, the Division Bench referred to a letter addressed by the District Dy. Registrar, Co-operative Societies, Ahmednagar, wherein there is reference that in view of pendency of the present petition, the applicant is not in a position to dispose off this property. It is case of the applicant that the Division Bench in the said order has expressed that bail application of the petitioner can be considered on depositing of the amount.

02. It appears from the order and from the submissions that the applicant wants to dispose off said property. He has assured the Division Bench that in case the properties are allowed to be sold, he will deposit proceeds in this Court, so as to obtain bail.

There statement is made that the applicant will move this Court for modification of order dated 26.02.2019. The Division Bench also expressed that even if the property is sold for lesser amount, still the applicant will deposit Rs. 1 crore. The valuation of the property is around Rs.85 lakhs, as given by the Liquidator of the Society i.e. respondent No.4. It is the apprehension of the society that the property though may fetch more amount in the market, still it will be sold for lesser amount and thus the Society will be deprived of the amount in recovery. The learned Advocate further expressed that if the property under attachment is sold, then in that case the entire process is to be followed and this may take considerable time.

03. It is in that view this Court is considering present application in the peculiar facts of this case, as the petitioner is behind the bar, who can be released on fulfilling condition of deposit of amount. It is thus considered that since all the properties are under attachment, the applicant is not in a position to dispose off any property. In view of the same, this Court in

extraordinary circumstances, is passing following order :-

ORDER

- (i) The application is allowed.
- (ii) The applicant is at liberty to sell the property described in prayer clause (A) of this application. Said property stands released from attachment.
- (iii) Even if the property is sold for lesser amount, the applicant shall deposit Rs.1 crore in the office of this Court within one week after the sale is completed.
- (iv) After depositing the amount, the said amount shall be kept in fixed deposit of any nationalized bank.
- (v) Other necessary orders will be passed depending upon circumstances.
- (vi) The civil application stands disposed off.

[KISHORE C. SANT, J.]