



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

907 WRIT PETITION NO. 11912 OF 2022

NARENDRA CHUDAMAN BENDALE DIED THROUGH ITS LRS SIMA
NARENDRA BENDALE

VERSUS

RECOVERY AND SALE OFFICER AND OTHERS

WITH

WRIT PETITION NO. 11913 OF 2022

NARENDRA CHUDAMAN BENDALE DIED THROUGH ITS LRS SIMA
NARENDRA BENDALE

VERSUS

**RECOVERY AND SALE OFFICER TAPI URBAN COOPERATIVE
CREDIT SOCIETY LTD AND OTHERS**

WITH

WRIT PETITION NO. 11923 OF 2022

NARENDRA CHUDAMAN BENDALE DIED THROUGH ITS LRS SIMA
NARENDRA BENDALE

VERSUS

RECOVERY AND SALE OFFICER TAPI URBAN CO OPERATIVE CREDIT
SOCIETY LTD AND OTHERS

WITH

WRIT PETITION NO. 4756 OF 2019

NARENDRA CHUDAMAN BENDALE THROUGH LRS SEEMA NARENDRA
BENDALE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

Mr.V.D. Salunke, Advocate for the petitioners.

Mr.A.D.Shinde, Advocate for respondent No.1.

Mr.V.D. Hon, Sr. Advocate i/b. Mr. A.V. Hon, Advocate for R-2.

Mr.K.B. Jadhavar, AGP for the respondent-State.

CORAM : KISHORE C. SANT, J.

DATE : 10.09.2024

PC :-

01. Arguments of both the parties are heard for long time. Learned Sr. Advocate for respondent No.2 also pointed out order passed by this Court in Writ Petition No. 4756 of 2019 dated 18.04.2019, which is annexed at page No.21 of the petitions. This Court in the said order had made it clear that the process of auction proceeding shall be in accordance with law. Final sale certificate shall be subject to outcome of the present petitions. He further submits that Writ petition Nos. 11912 of 2022, 11913 of 2022 and 11923 of 2022 are arising out of same proceeding and therefore subsequent writ petitions are not maintainable.

02. This Court finds that the order takes care of the interest of the petitioners by making it clear that everything done would be subject to outcome of that petition. In view of that this Court deems it fit to allow the petitioners in Writ petition Nos. 11912 of

2022, 11913 of 2022 and 11923 of 2022 to incorporate amendment in Writ Petition No. 4756 of 2019, instead of filing separate petition. In view of this, these petitions can be disposed of with liberty to the petitioners to carry out amendment in Writ Petition No. 4756 of 2019 in respect of challenge in the said writ petitions within four weeks from today.

03. It is pointed out that this Court while issuing notice by order dated 29.11.2022 had directed the parties to maintain status-quo. Said order was passed only after hearing the petitioners. As rightly pointed out by learned Sr. Advocate Mr. V.D. Hon that while passing order dated 29.11.2022, the respondent was not before the Court. After that order, no hearing as such, has taken place in these petitions and the interim relief is continued. He submits that if the interim order passed in this petitions is to be continued, the petitioners be put to some condition so as to test their bonafides. He submits that the enquiry report under section 88 is completed in the year 2009. All other Directors including wife of deceased Narendra Bendale have accepted the report and order.

Deceased Narendra in his life-time has not challenged the order under section 88. It is only present petitioners, sons of the deceased, have challenged the subsequent proceeding. As such, it is pointed out that now appeal is decided and revision is pending.

04. Be as it may, this Court finds that the petitioners need to show bonafides for continuation of interim relief, which was granted ex-parte on 29.11.2022. In view of the discussion above, this Court allows the petitioners to withdraw the writ petitions with liberty to carry out amendment in Writ Petition No. 4756 of 2019 within four weeks, in view of subsequent events/orders by raising grounds and necessary averments in the said petition including the prayer clauses.

05 Continuation of the interim relief for four weeks shall be subject to showing bonafides by the petitioners by depositing 50% of the amount of liability as fixed in enquiry under section 88 of the Co-operative Societies Act, in Writ Petition No. 4756 of 2019.

06. Writ petition Nos. 11912 of 2022, 11913 of 2022 and 11923 of 2022 are disposed off as withdrawn with liberty as prayed for.

[KISHORE C. SANT, J.]