



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

940 CONT. PETITION NO. 18 OF 2023
IN WP/7451/2014

MUKESH HANSRAJ JAIN

VERSUS

ANNASAHEB MISAL THE THEN COLLECTOR DHULE AND OTHERS

Mr.R.C. Bora, Advocate for the Petitioner.

Mr.V.K. Kotecha, APP for the Respondent/State.

Mr.Pramod Gaikwad, Advocate for Respondent No.5.

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATED : 02.05.2024

PC :-

01. Heard both the sides.

02. The Petitioner, irrespective of the objection being raised regarding his *locus standi*, invokes the contempt jurisdiction of this Court, when he was not a party to the original Writ Petition in which the order was passed, has been alleging breach of the order directing the Tahsildar to re-auction, so as to satisfy the creditors like the Petitioner in that Petition.

03. Admittedly, subsequently Respondent No.5-Society has undergone liquidation and the Liquidator is now being added as Respondent No.5. It

would now be a matter of resolution to be reached in the process of liquidation.

04. In view of such supervening event, the Respondents – Collector and Tahsildar would not be in a position to resort to any re-auction as was directed. The ball is now in the court of Respondent No. 5 – Liquidator. Suffice to refer to the order passed by the co-ordinate bench in the present Petitioner's Writ Petition No. 1825 of 2021 on 03.08.2023, relying upon the observations passed in earlier order dated 23.01.2019 in Writ Petition No.8215 of 2018 and connected matters, which read as under :-

“3. Under the Maharashtra Co-op. Societies Act, once the Society is under liquidation and the liquidator is appointed, it is the liquidator, who has to disburse the amount in accordance with the priority claims as laid down in the Act and the circulars.

4. It is submitted that because of the orders passed in writ petition and the contempt petition, the amount was required to be paid to those depositors. In fact, the amount ought to have been disbursed on pro rata basis, of course, considering the priority claims. It is submitted that there are 16500 depositors. The total amount of deposit is to the tune of Rs.2920.77 lakhs. The Society has to recover about Rs.2166.34 lakhs from the borrowers. Even if the entire amount is received, there would be still deficit. The liquidator shall chalk out the scheme as to the manner in which the payment of the depositors is to be made. The liquidator has to consider that no favoritism is shown to the particular depositors. It is also expected that the liquidator takes steps to recover the amount from the defaulters. It is further submitted that all proceedings under Section 101 of the M.C.S. Act are completed and the properties are now put to auction and amount is being realized. The same shall be expedited.

5. Considering the large number of depositors and the amount to be

recovered, we direct the District Deputy Registrar to supervise the working of the liquidator with regard to the distribution of the amount to the depositors. The liquidator shall take immediate steps to realize the amount and to distribute the amount to the depositors without showing favoritism to the particular depositors. It also appears that more amount is paid to some of the depositors. We do not find any scheme having been chalked out. The liquidator in consultation with the District Deputy Registrar shall chalk out the scheme with regard to repayment. The same shall be done expeditiously and preferably within a period of six weeks from today and the amount shall be paid to the depositors after recovery in tune with the scheme in accordance with law, so also considering the priority as laid down in the circulars.”

05. In our considered view the order of which disobedience is alleged cannot be executed/implemented under the changed circumstances.

06. The proceeding is closed.

[SHAILESH P. BRAHME,J.]

[MANGESH S. PATIL,J.]