Nikita

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1456 OF 2004

Nadeorao Shankarrao Chavan and Anr. … Petitioners

V/s.

Special Recovery Officer Rendal Sahakari Bank Ltd. and Ors. … Respondents

Mr. S. S. Patwardhan, for the Petitioner.

Mrs. V. S. Nimbalkar, AGP for the State-Respondent Nos. 3 and 4.

Ms. Pavitra Manesh i/b Mr. Meelan S. Topkar for Respondent Nos. 6 and 7.

Mr. Manoj M. Sabale a/w Mr. Hiten S. Venegavkar for Respondent Nos. 1 and 2.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 14, 2024

P.C.:

1. The petitioners-purchasers of the property from borrower who obtained loan from Respondent No.2 is challenging order passed by Divisional Joint Registrar dismissing Revision Application on the ground of non-compliance of Section 154(2)(a) of the Maharashtra Cooperative Societies Act, 1960.

2. The Assistant Registrar by order dated 18th September 2002 issued a certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 directing Respondent No.6 and other two persons to pay an amount of Rs.10,00,000/- along with the interest at the rate of 19% per annum from 1st July 2002, till its realization.

3. The borrower aggrieved by the said order, filed revision application before the Divisional Joint Registrar.

4. During the pendency of the revision application, the Divisional Joint Registrar on 22nd April 2003, directed bank to issue no objection certificate to the borrower to sale the mortgage on receipt of entire due of Rs.11,04,000/-.

5. The borrower on 23rd April 2003, filed an application before the Divisional Joint Registrar pointing out that the bank refused to issue no objection certificate despite borrower's readiness of payment of Rs.11,04,000/- by demand draft No.419112, dated 23rd April 2003. The Divisional Joint Registrar on 9th June 2003, directed bank to furnish no objection certificate on receipt of remaining dues of Rs.2,50,000/-. The receipt issued by the bank dated 23rd June 2003 and 28th June 2003, indicates that entire dues have been paid.

6. In the mean time, it appears that the borrower executed registered sale deed in favour of the petitioners, in relation to property mortgaged to the bank.

7. It appears from the Roznama dated 17th December 2003, that the Divisional Joint Registrar rejected borrower's revision on the ground that borrower failed to comply with the provisions of Section 154(2)(a) of the Act.

8. Mr. Venegavkar, learned counsel for the bank, states that he has no instruction in the present matter.

9. However, considering the facts referred above, it appears that the bank before the impugned order received amount of recoverable dues of Rs. 11,04,000/- as mentioned in the certificate. Therefore, impugned order cannot be sustained.

10. Since, the petitioners are the purchasers of the property, in view of the order passed by the Divisional Joint Registrar dated 19^{th} March 2003, the petitioners are permitted to be transposed by revision applicant.

11. The necessary amendment in the revision application to be carried out within six weeks from today.

12. The revisional authority shall decide the revision application on merits after giving opportunity of hearing to the petitioners and the bank.

13. In view of payment of amount, all consequential steps under Rule 107 of the Maharashtra Cooperative Societies Rules, 1960 are quashed and set aside.

14. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)