

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAW) NO. 1861 OF 2024

IN

WRIT PETITION NO. 2019 OF 2023

Pramod S/o Kajodimal Agrawal

Vs.

State of Maharashtra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms K.E. Meshram, Advocate for petitioner
Shri A.S. Fulzele, Addl.G.P. for respondents/State

CORAM : AVINASH G. GHAROTE AND
SMT M.S. JAWALKAR, JJ.

DATE : 05.09.2024.

It is not disputed that the property which has been put to auction is of the respondent No.7, Kalamna Market Urban Credit Cooperative Society, who actually, is the opponent in Execution Application No.10/221, in which a settlement took place between the respondent No.5 and the respondent No. 7, represented by its Branch Manager and the petitioner which has attained finality in absence of any challenge, in pursuance to which, a cheque of Rs.12,35,231/- dated 25/03/2023, was issued in favour of respondent No.5, which has been dishonoured. Thereafter, the compromise order has been put to execution, in which, the property of the respondent No. 7, Society, has been put to auction, which

auction notice has been questioned by the present petitioner. It is necessary to note, that the Society has not questioned the attachment and auction of the property, but it is the petitioner in his personal capacity who has done so. The locus of the petitioner is a question also to be considered. However, since the liability of the respondent No. 7, Society to make the payment is not in question and the amount of 18,00,000/-, has been deposited to stave off the auction, in our considered opinion, the amount should be permitted to be withdrawn by the respondent No. 3. The application of respondent No. 3, is therefore allowed, subject to an undertaking, to refund the amount, in case the decision of the petition goes against him.

(SMT M.S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)