

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5782 OF 2024**

Shri. Ganpat Dadabhau Mali And Anr. **...Petitioners**

V/s.

Jijamata Mahila Sahakari Bank Ltd.
And Ors. **...Respondents**

Mr. Vaibhav R. Gaikwad *for the Petitioners.*

CORAM : SANDEEP V. MARNE, J.

Dated : 3 March 2025.

P.C. :

1) The Petition challenges order dated 1 February 2023 passed by the Co-operative Appellate Court, allowing Appeal From Order No.36 of 2022 and restraining the Petitioner from creating third party rights in respect of land bearing Gat No.22, Hissa No.2A/2, admeasuring about 2H. 51R. situated at village Shirur, Taluka Shirur, District Pune.

2) I have heard Mr. Gaikwad, the learned counsel appearing for the Petitioners and have considered his submissions canvassed by him.

3) There is no dispute to the Petition that the Petitioners have purchased the land which was already mortgaged in favour of the Respondent-Bank. Though it is sought to be suggested that the recovery proceedings *qua* borrower are dismissed, the Bank has apparently filed revision against the order dismissing the recovery proceedings against the borrower. Since the Petitioners have purchased the land with full knowledge of subsistence of mortgage in respect of that property, they cannot create third party rights and need to preserve the property during pendency of the dispute.

4) It is sought to be suggested that the bank has 14 other and better properties to satisfy their claim towards loan. However, it is for the Bank to decide as to how to recover the outstanding loan amount from various properties belonging to the Petitioners. Petitioners cannot dictate terms on the Bank and insist that the other properties must be sold without undertaking the sale of the Petitioners' property.

5) In my view therefore no patent error cannot be traced in the impugned order dated 1 February 2023 passed by the Appellate Court.

6) All contentions of the Petitioners on merits are specifically kept open for being raised before the Co-operative Appellate Court.

7) The Writ Petition is accordingly **disposed of**.

[SANDEEP V. MARNE, J.]