

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9245 OF 2025

Shanup Sudhir Dharia

.....Petitioner

Vs.

The State of Maharashtra & Ors.

.....Respondents

Mr. Amogh Singh a/w Mr. Ronni Arora & Mr. Nirav Karia i/b Mr. Bhavin Bhatia, for the Petitioner.

Mr. B. V. Samant, Additional Government Pleader a/w Mr. R. S. Pawar, AGP for the Respondent-State

Mr. Santosh D. Mishra, for the Respondent No.5.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATE : 10th July 2025.

P.C.:-

1. By order dated 8th July 2025, Mr. Amogh Singh, learned counsel appearing for the Petitioner, sought leave to amend the Petition. Pursuant to leave so granted, the amendment was carried out by adding two prayers (d1) and (e1) to the Petition and the grounds corresponding thereto.

2. The Petitioner seeks to quash the judgment and order dated 24th September 2019 passed by the Respondent No.2- MahaRERA in Complaint No.CC006000000056489. The Petitioner

also assails quashing of the proclamation of sale and a written notice to that effect dated 5th June 2025 issued pursuant to the order dated 24th September 2019 as well as revenue recovery certificate dated 15th July 2022. The Petitioner further seeks quashing of the execution of recovery warrant dated 7th March 2022 passed by the Respondent No.2-MahaRERA under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016 (RERA Act).

3. According to the Petitioner, the Respondent No.4-Additional Tahsildar, Panvel has declared an auction sale of the entire writ property pursuant to the impugned orders passed by the MahaRERA. It is his submission that he was never a party before the MahaRERA and he has 50% undivided interest in the said property. In these circumstances, he prays that his interest in his portion of the property must be protected. On the basis of this contention, by order dated 8th July 2025 while issuing notice to the Respondent Nos.1,3,4 and 5, we had granted status-quo in respect of the writ property till the next date.

4. At the very outset, Mr. B.V. Samant, learned Additional Government Pleader representing the Respondent Nos.1,3 and 4

submitted that under the provisions of Section 218 of the Maharashtra Land Revenue Code, 1966 ('Code'), the Petitioner is entitled to set up a claim before the Tahsildar, Panvel, who is executing the MahaRERA order, to the property attached and proceeded against for determination of his interest to the extent of 50% of the property to be auctioned.

5. In view of the statement made by Mr. Samant, Mr. Singh, on instructions, sought to withdraw the Petition with liberty to set up his claim before the Tahsildar, Panvel. Leave is granted to withdraw the Petition with liberty as prayed. The Petitioner shall set up his claim and submit all the necessary documents before the Tahsildar, Panvel within a period of one week from the date of uploading this order. The Tahsildar is requested to decide the said claim as expeditiously as possible and preferably within 4 to 6 weeks. Infact, in view of the statement made by Mr. Samant, Mr. Singh also does not press the other reliefs as sought for. Hence, none of the other reliefs are considered.

6. Till the claim is decided as above, the Tahsildar, Panvel is restrained from the auction sale of the writ property admeasuring

approximately 121.40 sq.mtrs. at City Survey No.68B, Devloli Budruk, Panvel, Raigad.

7. Petition stands disposed of as withdrawn.

8. Needless to state, that we have not gone into the merits of the Petition and as such, keep all contentions of all the parties on merits open.

9. We make it clear that if the Petitioner fails to make his claim before the Tahsildar within one week from the date of uploading of this order, the auction sale of the property shall stand vacated.

10. All parties to act on an authenticated copy of this order.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)

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