Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13463 OF 2025

GS Mahanagar Cooperative Bank Ltd. … Petitioner
V/s.
The State of Maharashtra & Ors. … Respondents

WITH
WRIT PETITION NO. 13525 OF 2025

Darshan Premchand Singh … Petitioner
V/s.
The State of Maharashtra & Ors. … Respondents

Mr. Sanjiv Punalekar a/w Ms. Deepika, Paswan, for the Petitioner in WP/13463/2025 and for Respondent No.4 in WP/13525/2025.

Mr. Sunit Kothari a/w Mr. Dhawal Giri, for the Petitioner in WP/13525/2025.

Ms. V. S. Nimbalkar, AGP, for the State – Respondent Nos.1 to 3 in WP/13463/2025.

Ms. Savina R. Crasto, AGP, for the State – Respondent Nos.1 to 3 in WP/13525/2025.

Mr. Khushnood Akhatar i/b Mr. Shivaji Nirmale, for Respondent No.5 in WP/13463/2025.

Mr. Prashant P. Kulkarni a/w Ms. Ritika Rajeev, for Respondent No.7 in WP/13463/2025.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 28, 2025

ORAL JUDGMENT:

1. **Rule.** Rule made returnable forthwith.

2. Both petitions arise from a common grievance. The auction purchaser challenges the order of the Revisional Authority. The Revisional Authority set aside the auction in a revision filed by the borrower. The borrower had questioned the conduct of the auction, including the action of the Recovery Officer in locking the premises. The borrower had also sought a direction for deciding the objections filed under sub-rule 19 of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961.

3. The material facts are as follows. The Registrar issued a recovery certificate under Section 101 of the Maharashtra Cooperative Societies Act, 1960 against the borrower in the year 2017. On 26 December 2024, the borrower submitted a proposal for One Time Settlement. The Bank accepted it with a condition that the borrower must deposit twenty-five percent of the amount on or before 31 January 2025 and pay the balance in eleven monthly instalments. The borrower did not deposit the amount of Rupees 2,65,10,246 by 31 January 2025. The Bank therefore informed the borrower on 7 February 2025 that the OTS stood cancelled on account of breach of the condition.

4. On 8 April 2025, the District Deputy Registrar fixed the upset price for the auction. The auction purchaser complied with clauses G and H of sub-rule 11 of Rule 107 of the MCS Rules. By order dated 24 July 2025, the District Deputy Registrar stayed the auction process. The Bank then filed Writ Petition No. 10807 of 2025. The Division Bench, by order dated 6 August 2025, permitted the borrower to deposit Rupees 69 lakh within two days. The Division Bench allowed the auction to proceed but directed that the sale shall not be confirmed till a decision is taken in the pending revision before the District Deputy Registrar.

5. The borrower deposited Rupees 69 lakh. Relying on this deposit, the Revisional Authority held that the Bank had not complied with the OTS proposal. It concluded that the auction was not held in accordance with Rule 107 of the MCS Rules. It therefore set aside the auction. The Bank and the auction purchaser have filed these petitions.

6. Learned Advocate for the Bank and the auction purchaser submitted that the revision itself was not maintainable having regard to the nature of reliefs sought. They submitted that acceptance of the OTS was conditional. The borrower was required to deposit twenty-five percent of the amount by 31 January 2025. Clause 6 of the sanction letter of the OTS sets out the consequence of default. The clause states that if the borrower fails to deposit the amount by 31 January 2025, the Bank is free to proceed with the auction of the secured property. It was submitted that the borrower had not fulfilled the mandatory conditions of the OTS. In such a situation, the Revisional Authority could not have set aside the auction.

7. The learned Advocate for the borrower opposed the petitions. He submitted that the borrower complied with the order of the Division Bench by depositing Rupees 69 lakh within two days. He submitted that the borrower was entitled to the benefit of that order. He argued that clause 1 of the OTS permitted the borrower to deposit Rupees 69 lakh within two days from the order of this Court. According to him, this substantially complied with the conditions imposed by the Bank. He submitted that the Revisional Authority rightly allowed the revision. He prayed for dismissal of the petitions.

8. I have heard the learned advocates and examined the record. Certain facts stand admitted. Three recovery certificates under Section 101 of the Maharashtra Cooperative Societies Act were issued in 2017. On 2 January 2025, the Bank accepted the One Time Settlement proposal of the borrower. The acceptance was subject to clear conditions. Condition 1 required the borrower to deposit twenty-five percent of the amount within one month. Only on such deposit would the borrower earn the right to pay the balance by eleven monthly instalments. Condition 1 also states in plain words that if the borrower fails to deposit twenty-five percent, the Bank will treat the borrower as having declined the benefit of the OTS and the Bank will appropriate five percent of the deposit towards the principal. Condition 6 reiterates that twenty-five percent must be deposited on or before 31 January 2025. It further states that if the borrower defaults, the Bank will proceed to sell the secured property through auction. These conditions leave no scope for doubt. The borrower did not comply.

9. It is also admitted that the auction purchaser complied with the mandatory requirements of Rule 107 of the Maharashtra Cooperative Societies Rules. The purchaser deposited fifteen percent and thereafter the balance eighty-five percent within the stipulated time. The statutory scheme treats these requirements as mandatory. The purchaser stands protected once he complies.

10. The only plea pressed by the borrower relates to the alleged improper fixation of upset price. This plea has no merit. The borrower did not avail any legal remedy at the appropriate stage. After the Bank terminated the OTS in view of the borrower's default, and communicated this to him on 7 February 2025, the legal position became clear. The borrower could have paid the entire amount required under Rule 107 before the auction. He could have exercised the right under sub-rule 13 of Rule 107 by depositing the requisite amount within thirty days from the auction. Both rights arise from statute. Both remain unexercised. In these circumstances, the Revisional Authority had no basis to rely on the deposit of Rupees 69 lakh made pursuant to the order of the Division Bench. That deposit was not in furtherance of a subsisting OTS. The OTS had already lapsed by operation of its own terms. The Division Bench only ensured that the auction proceeds, subject to the outcome of the revision. The Revisional Authority could not treat that interim arrangement as reviving a terminated OTS.

11. The order of the Division Bench did not determine the rights of the parties. It only permitted a deposit and directed that the auction shall not be confirmed till the revision is decided. Such an order regulates the process. It does not confer any substantive benefit nor does it breathe life into an OTS that stood terminated due to non-compliance with Conditions 1 and 6.

12. The Revisional Authority could not have entertained a challenge to the entire auction process in a revision under Section 154 of the Maharashtra Cooperative Societies Act, in the absence of challenge to quasi judicial order. The law is settled that a revision lies only against a quasi judicial order. The conduct of an auction as a whole cannot be examined in revision. The Revisional Authority therefore acted beyond jurisdiction.

13. In view of the above discussion, the impugned order cannot stand. It is liable to be quashed and set aside.

14. Hence, Rule is made absolute in terms of prayer clauses (a) and (b).

15. Both the writ petitions are disposed of accordingly in above terms.

16. Pending interlocutory application(s), if any, stand disposed of.

17. No order as to costs.

(AMIT BORKAR, J.)