

ITEM NO.11

COURT NO.8

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).14959-14960/2015

(Arising out of impugned final judgment and order dated 28-04-2014 in WP No. 5753/2013 and 25-08-2014 in CA No. 1600/2014 in WP No. 5753/2014 passed by the High Court of Judicature at Bombay)

NAIR NANDKUMAR BHASKARAN

Petitioner(s)

VERSUS

BHUSAN SUNIL BHOSALE AND ORS.

Respondent(s)

WITH

Diary No(s). 19653/2017 (IX)

(WITH IA No. 178134/2018 - CONDONATION OF DELAY IN FILING, IA No. 178135/2018 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS, IA No. 178136/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 10955/2018 (IX)

Date : 11-12-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s) Mr. Vinay Navare, Sr. Adv.
Mr. Shashibhushan P. Adgaonkar, AOR
Mr. Nakul Motha, Adv.
Mr. Gagandeep Sharma, Adv.
Mr. Johnson Subba, Adv.

For Respondent(s) Mr. Rakesh K. Sharma, AOR
Mr. Nishant Sharma, Adv.

Mr. Aaditya A. Pande, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

The petitioner applied for withdrawal of the writ petition which was filed before the High Court of Judicature at Bombay questioning the correctness of an order which was passed in a revision under Section 154 of the Maharashtra Co-operative Societies Act 1960. While seeking the withdrawal of the writ petition, the petitioner sought liberty to file a suit, which has been granted by the High Court. The auction purchasers to whom the property has been sold in pursuance of the initial sale which was conducted by the Cooperative Bank were admittedly not parties to the revisional proceedings under Section 154. Hence, the High Court, on the application for recall of its earlier order, maintained the earlier direction permitting the withdrawal of the writ petition with liberty to file a suit.

Having heard Mr Vinay Navare, learned senior counsel appearing on behalf of the petitioner and Mr Nishant Sharma, learned counsel appearing on behalf of the respondent - Bank, we are not inclined to interfere with the impugned orders of the High Court under Article 136 of the Constitution. However, in view of the pendency of the proceedings before this Court and since the petitioner has been *bona fide* pursuing the remedies available in law, we grant liberty to the petitioner to institute a suit, if so advised, within a period of three months. If the suit is so instituted, learned trial Judge shall consider in accordance with law the period

which was spent in pursuing the proceedings before this Court.

Subject to the above, the Special Leave Petitions are dismissed.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER