2025:BHC-AS:48823

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7660 OF 2021

1. **Ramrao Tukaram Patil**,
   Age 62 years, Occupation:
   Business and Agriculture
2. **Manjusha Ramrao Patil**,
   Age 60 years, Occu.: Agriculture
3. **Sindhubai Ramrao Patil**,
   Age-Adult, Occupation- Agriculture,
   Petitioner Nos.1 to 3, residing at
   'Shantai' Bunglow, Mahatma Nagar,
   Nashik.

… **Petitioners**

V/s.

1. **State of Maharashtra**,
   through Secretary, Department of
   Cooperation, Mantralaya, Mumbai.
2. **The Chairman**,
   The Nashik District Industrial &
   Mercantile Coop. Bank Limited,
   having its office at Shiv Kamal
   Apartment, Canada Corner,
   Sharanpur, Nashik 422 005
3. **Sahebrao Rangnath Dhomse**,
   Age- Adult, Occupation- Agriculture,
   At post Ugaon, Taluka Niphad,
   District Thane
4. **Divisional Joint Registrar, Coop. Societies**, Nashik, having his office
   at Gadkari Chowk, Nashik.

5. **Deputy Registrar, Coop. Societies**,
Nashik.

6. **Special Recovery Officer**,
Nashik District Industrial &
Mercantile Cooperative Bank Ltd.,
having it's office at Shiv Kamal
Apartment, Canada Corner,
Sharanpur, Nashik 422 005

... **Respondents**

WITH
WRIT PETITION NO.7661 OF 2021

1. **Manjusha Ramrao Patil**,
Age 60 years, Occu.: Agriculture

2. **Ramrao Tukaram Patil**,
Age 62 years, Occupation:
Business and Agriculture

3. **Sindhubai Ramrao Patil**,
Age-Adult, Occupation- Agriculture,
Petitioner Nos.1 to 3, residing at
'Shantai' Bunglow, Mahatma Nagar,
Nashik.

... **Petitioners**

V/s.

1. **State of Maharashtra**,
through Secretary, Department of
Cooperation, Mantralaya, Mumbai.

2. **The Chairman**,
The Nashik District Industrial &
Mercantile Coop. Bank Limited,
having its office at Shiv Kamal
Apartment, Canada Corner,
Sharanpur, Nashik 422 005

3. **Sanjay Prakash Hiray**,
   Age- Adult, Occupation- Agriculture,
   Residing at Ashapuri Apartment,
   Near Dutta Mandir, Untawadi,
   CIDCO, Nashik.

4. **Divisional Joint Registrar, Coop. Societies**, Nashik, having his office at Gadkari Chowk, Nashik.

5. **Deputy Registrar, Coop. Societies**, Nashik.

6. **Special Recovery Officer**,
   Nashik District Industrial & Mercantile Cooperative Bank Ltd., having it's office at Shiv Kamal Apartment, Canada Corner, Sharanpur, Nashik 422 005

... **Respondents**

Mr. Girish S. Godbole, Senior Advocate i/by Mr. Shrishailya S. Deshmukh for the petitioners in both the writ petitions.

Mr. P.G. Sawant, AGP for respondent No.1-State in both writ petitions.

Mr. S.R. Nargolkar with Mr. Arjun Kadam and Ms. Neeta Patil for respondent Nos.2 and 6 in both writ petitions.

Mr. Abhishek Arote for respondent No.2 in WP/7660/2021,

Mr. Vijay D. Patil, Senior Advocate i/by Mr. Yogesh V. Patil for respondent No.3 in WP/7661/2021.

CORAM : AMIT BORKAR, J.

RESERVED ON : NOVEMBER 10, 2025

PRONOUNCED ON : NOVEMBER 14, 2025

JUDGMENT:

1. The petitioners are the judgment debtors. They challenge the Judgment and Order dated 1 November 2021 passed by the Divisional Joint Registrar, Cooperative Societies. By the said order, the Revisional Authority rejected their application seeking condonation of delay of twelve years in filing a revision against the order confirming the sale of their properties.

2. The relevant facts are as follows. On 4 April 2005, the petitioners took two separate loans by mortgaging two different properties. On 16 January 2007, the Registrar issued two certificates under Section 101 of the Maharashtra Cooperative Societies Act, 1960. One certificate was for an amount of Rs. 68,08,969. The other was for Rs. 83,47,098. The petitioners failed to pay the dues as per the certificates. The Special Recovery Officer then held an auction of the mortgaged properties, being Gat No. 183 and Gat No. 332. The auction took place on 17 August 2009. The petitioners allege that the auction purchaser did not deposit 15 percent and 85 percent of the bid amount within the period prescribed under clauses (g) and (h) of Rule 107(11) of the Maharashtra Cooperative Societies Rules, 1961. According to the petitioners, this non-compliance renders the auction void.

3. The petitioners initially filed Writ Petition (St.) No. 9104 of 2021 before this Court. This Court permitted them to withdraw the petition with liberty to take appropriate proceedings. Relying on the liberty granted by the Division Bench, the petitioners filed a revision application under Section 154 of the MCS Act challenging

the auction proceedings and confirmation of sale. The revision was accompanied by an application seeking condonation of a delay of more than twelve years.

4. In the revision application as well as in the application seeking condonation of delay, the petitioners stated on oath that they were unaware of the auction sale. They claimed that they came to know about the auction for the first time in November 2020. They further stated that after obtaining information and documents, they filed the revision. According to them, the delay deserves to be condoned. They also stated that since they had no knowledge of the auction, the date of auction should be treated as 6 November 2020 for computing limitation.

5. The respondent Bank and the auction purchasers opposed the request for condonation of delay. They submitted that the delay is of more than twelve years. They denied that the petitioners learnt about the auction only on 6 November 2020. They pointed out that on 16 September 2011 the petitioners applied to the Bank for copies of the loan documents. On the same day, the Bank supplied the petitioners with account extracts which clearly reflected the entry of auction amount deposited by the auction purchasers on 1 October 2009. This, according to the respondents, shows that the petitioners were aware of the auction on 16 September 2011. The respondents also referred to a letter dated 16 April 2015 sent by the petitioners to the Bank which acknowledged the deposit and appropriation of the auction amount. According to the respondents, these documents show that the petitioners knew about the auction even in 2011 and again in

2015. Hence, the claim that they came to know of the auction only on 6 November 2020 is false.

6. The Revisional Authority rejected the application for condonation of delay by order dated 1 November 2021. Aggrieved by that decision, the petitioners have filed the present writ petition.

7. Mr. Godbole, learned Senior Advocate for the petitioners, submitted that the auction purchasers failed to deposit 15 percent and 85 percent of the bid amount as required under Rule 107(11) (g) and (h) of the MCS Rules, 1961. According to him, due to this non-compliance, the auction has no legal existence. He submitted that when the confirmation of sale itself is void, no limitation applies. Such proceedings, being null, can be challenged at any stage. He relied on the judgment of this Court in *Arjun Fakira Bari v. Divisional Joint Registrar, Cooperative Societies, 2021 SCC OnLine Bom 743*. On this basis, he submitted that an order which is void can be questioned at any time and in any proceeding, irrespective of the delay.

8. In reply, Mr. Nargolkar, learned Advocate for respondent Nos. 2 and 6, Mr. Vijay Patil, learned Senior Advocate for respondent No. 3 in Writ Petition 7661 of 2021, and Mr. Nalawade, learned Advocate for respondent No. 3 in Writ Petition 7660 of 2021 opposed the petition. They submitted that the petitioners have made false statements in paragraph 26 of the writ petition that they were unaware of the auction proceedings and came to know about the auction only in November 2020.

9. They drew my attention to the application dated 16 September 2011 filed by the petitioners before the Bank. The petitioners sought copies of account extracts. The Bank supplied the copies on the same day. The petitioners acknowledged receipt of the account extract which clearly shows the entry regarding the auction amount deposited by the auction purchaser. They also drew attention to the application dated 16 April 2015 submitted by petitioner No. 1 to the Bank. In that application, petitioner No. 1 has stated that the Bank auctioned their property and that the balance amount had been paid by him. The petitioners have not disputed the said letter dated 16 April 2015. The Revisional Authority has already recorded findings regarding the petitioners' knowledge of the auction. Despite this, the petitioners again stated in paragraph 26 of the present writ petition that they came to know about the auction only in November 2020. According to the respondents, the petitioners have repeatedly made false statements on oath. Hence, they are not entitled to invoke the extraordinary jurisdiction of this Court.

10. The learned counsel has drawn support from the judgment of the Supreme Court in *Amar Singh v. Union of India, (2011) 7 SCC 69*. The respondents further relied on the judgment of this Court in *Shamrao Ramu Kamble v. State of Maharashtra, Writ Petition No. 1072 of 2005 decided on 15 April 2025*.

11. The respondents therefore submitted that the petitioners have made false statements on oath and suppressed material facts. They submitted that on this ground alone, the writ petitions deserve dismissal without examining the merits.

12. I have considered the record, the submissions of the learned counsel, and the material placed during the course of hearing. The issue before this Court is limited. The petitioners seek interference in the order dated 1 November 2021 passed by the Divisional Joint Registrar rejecting their application for condonation of delay of more than twelve years in filing the revision against the confirmation of auction sale.

13. The petitioners assert that they had no knowledge of the auction sale till November 2020. This claim forms the foundation of their request for condonation of delay. The record, however, shows that such assertion patently false.

14. The material on record reveals that on 16 September 2011, the petitioners applied to the Bank seeking copies of account extracts. On the same day, the Bank furnished the copies. The extract contains an entry showing deposit of auction proceeds made by the auction purchaser on 1 October 2009. The petitioners acknowledged receipt of this extract. This acknowledgment leaves no doubt that they were aware about the auction at least on 16 September 2011.

15. The letter dated 16 April 2015 written by petitioner No. 1 is on record. In that letter, petitioner No. 1 clearly stated that the Bank had auctioned the mortgaged property. He also referred to the amount received through the auction and adjusted by the Bank. The petitioner has signed this letter. The contents of the letter leave no room for doubt. The petitioner was aware of the auction sale at least on 16 April 2015.

16. In spite of this, the petitioner has made a categorical statement on oath in the delay condonation application and in the writ petition that he came to know about the auction only in November 2019. This is not an inadvertent error. It is a conscious and deliberate assertion. The statement is contrary to the record. When a litigant signs a letter acknowledging the auction in 2015, and yet states before this Court that knowledge was first gained in 2019, the only conclusion possible is that a false statement has been knowingly made.

17. In such circumstances, the explanation offered by the petitioner that he became aware of the auction only in 2020 is not only unacceptable, but it shows a deliberate attempt to mislead the Court. No litigant has a right to suppress facts and then seek relief. When the foundation of the plea itself is false, the entire case built on it falls. Courts cannot act on statements which are proved to be untrue by the litigant's own record.

18. There is an increasing trend of litigants approaching constitutional courts with incomplete facts or half-truths to secure interim or final relief. This reflects an attempt to gain advantage not through the strength of the case, but through concealment or misrepresentation. Such conduct undermines the dignity of judicial proceedings. It shakes public confidence in the justice delivery system.

19. The writ jurisdiction stands on the principle of fairness. Any person who comes to this Court for relief must speak the truth. If a litigant hides facts or makes a false statement, the Court cannot

ignore such conduct. This is not a small or technical defect. A Court cannot accept a version that is contradicted by the litigant's own documents. No party can benefit from a false statement and at the same time expect relief from this Court.

20. Writ jurisdiction is discretionary. It is based on equity. The Court assumes that a person approaching it is fair and transparent. The moment it is shown that the party has concealed facts or made a false statement, the basis of the writ petition collapses. A person who seeks extraordinary relief must show complete honesty. Fairness is not a choice. It is a requirement. If a party hides relevant facts or places half-truths before the Court, he tries to obtain an order not because he has a good case, but because the Court has been misled. The Court cannot support such conduct.

21. Suppression of facts and false statements strike at the root of justice. These acts cannot be taken lightly. The Court cannot decide on shifting versions. The decision must rest on complete and correct facts. When a party's own documents contradict his stand, his credibility is lost. A person cannot gain advantage out of falsehood. A litigant who does not tell the truth has no right to remain in writ jurisdiction. Equity does not favour a person who acts unfairly. When the conduct of a litigant falls short of honest disclosure of material facts , the Court will refuse to exercise its jurisdiction. The Court cannot permit its process to be misused by suppression or deceit.

22. Writ jurisdiction is a constitutional and discretionary power of this Court. It is based on fairness and equity. The Court proceeds

on the belief that any person who approaches it will place all facts honestly and without hiding any material fact. If it is revealed that a litigant has hidden material facts or made a false statement, the very basis of the writ petition fails.

23. A person who seeks extraordinary relief must show complete fairness. Honesty in disclosure of material facts is compulsory. If a party hides material facts or presents only part of the truth, he tries to get an order not on the strength of his case, but by keeping the Court in the dark. The Court cannot tolerate such conduct. Hiding material facts or giving false information strikes at the root of justice. It is not a minor or technical mistake. A Court cannot decide a matter on changing or doubtful facts. The decision must rest on full and correct facts. When the documents of the litigant himself contradict what he states before the Court, he loses his credibility. No one can take benefit from falsehood. A person who does not discloase material facts cannot seek relief under writ jurisdiction. Equity does not favour a litigant who behaves unfairly. When a litigant does not maintain the standard of disclosure of material facts, the Court will refuse to exercise its jurisdiction. The Court cannot allow its authority to be used by someone who relies on suppression or misrepresentation.

24. Truth is the foundation of justice. A person who speaks untruth on oath loses the right to claim extraordinary relief. If the conduct of the petitioner itself is tainted by falsehood, no relief can be granted. The Court cannot allow its process to be used for any advantage obtained through hiding facts or misleading the Court.

25. The observations of the Supreme Court in *Amar Singh* offer clear guidance on the conduct expected from a person who invokes the writ jurisdiction of a constitutional court. The Court held that litigation is not a game of moves and counter moves. The proceedings of the Court are serious. A party approaching the Court must state the truth. He must not shift stands. He must not conceal facts. The Supreme Court has held that the writ jurisdiction is discretionary. A party who seeks relief must act with utmost honesty and fairness.

26. The Supreme Court in *Amar Singh* concluded that where a party presents incorrect facts or suppresses material facts, the Court shall not permit such a litigant to gain advantage. The Court is not helpless. The writ jurisdiction is extraordinary and equitable. It is not to be used by those who attempt to mislead. When a litigant suppresses facts or twists the record, the Court will decline to enter into merits. Relief under Article 226 is refused not as a punishment, but because a person who acts unfairly cannot demand equity.

27. Thus, the law declared by the Supreme Court is clear. A litigant must approach the Court with clean hands, clear facts, and honest disclosure. Where the conduct of the party itself is doubtful, the Court need not exercise its extraordinary jurisdiction.

28. In *Shamrao Ramu Kamble*, this Court examined the conduct of the litigant before invoking writ jurisdiction. Paragraph 19 of that judgment makes the legal position clear. The Court held that a person who seeks relief under Article 226 must place every

relevant fact before the Court. He must not hold back any information which has a bearing on the issue. The Supreme Court in *Prestige Lights Ltd. v. State Bank of India, AIR 2007 SCW 5350*, reaffirmed that it is the bounden duty of a litigant to disclose all material facts fully and fairly. Suppression of material facts or making misleading statements amounts to abuse of the jurisdiction of the Court.

29. Reference was made to the principle laid down in *In Re Kensington Income Tax Commissioners, (1917) 1 KB 486*. It was held that where a party approaches the Court ex parte and conceals facts, the Court can decline to grant any relief. This principle has stood the test of time. The reason is simple. The Court decides on the basis of facts presented before it. If the facts are twisted or concealed, the foundation of justice becomes weak.

30. In *Shamrao Ramu Kamble*, the petitioners concealed earlier proceedings and an earlier judgment directly connected with the issue. They also made a false statement regarding their knowledge of an exemption certificate. The Court held that when a litigant does not disclose past litigation or makes a false statement on oath, he seeks to gain an unfair advantage. In such a situation, no indulgence can be shown. The Court held that the writ petition deserved dismissal only on the ground of suppression of facts and unexplained delay. The Court declined to examine the merits of the case.

31. When a litigant hides material facts or knowingly makes a false statement to secure a favourable order, the Court cannot

proceed to examine the merits of the case. The writ jurisdiction is extraordinary. It is meant to ensure justice. It cannot be used to gain advantage through deception.

32. The Court relies on what is stated by the parties. It expects the litigant to place all relevant facts on record. If a party chooses to mislead the Court, the Court is not bound to continue hearing the matter. The judicial process is not meant to reward dishonesty.

33. Once the Court finds that the litigant has tried to mislead it by withholding facts or by making a false statement, the appropriate course is to refuse relief at that very stage. The Court cannot allow a litigant to benefit from unfair conduct. Entertaining the case on merits in such a situation would encourage others to adopt similar tactics.

34. Therefore, when a party approaches the Court with suppression of facts or falsehood, the Court will decline to exercise its jurisdiction. The case ends there. No further inquiry into merits is required.

Reasons for imposing costs:

35. In this case, the petitioners' plea is based on fasehood. The documents placed on record clearly show that they knew about the auction in 2011 and again in 2015. Despite this, they stated on oath that they came to know about the auction only in 2020. This statement is false. The petitioners repeated the same false plea in the delay condonation application and in the writ petition. Such conduct is not a mistake. It is a deliberate attempt to mislead the Court.

36. Writ jurisdiction is based on truth and fairness. When a party suppresses facts or makes false statements, the Court cannot permit use of its process for such a purpose. Entertaining the matter on merits in such circumstances would amount to encouraging dishonest conduct. A litigant who seeks relief must show respect for truth. When he does not do so, he cannot expect the Court to exercise discretion in his favour.

37. The hearing consumed about ninety minutes of judicial time. Court time is not private property. It belongs to every litigant waiting in the corridor of justice. Every minute spent on a matter built on falsehood results in genuine matters being delayed. Other litigants were waiting for their matters to be taken up. They could not be heard because the Court was required to deal with a case which should not have been filed in the first place.

38. The petitioners had no right to misuse the judicial process and block precious time of the Court. The Court must ensure that such conduct does not get repeated. When a litigant causes wastage of public time by suppressing facts or making false statements, imposition of costs becomes necessary. It sends a clear message that Court time is valuable and cannot be taken for granted.

39. This results in unnecessary expenditure for the respondents and wastage of public resources. Public time belongs to every litigant waiting for justice. When a party uses the process of the Court to obtain an advantage through suppression or falsehood, imposition of costs becomes necessary to ensure that such conduct

does not repeat.

40. The costs are not being imposed as a punishment. They are imposed to compensate the respondents for the hardship caused and to protect the judicial process from being misused.

41. Therefore, in addition to dismissal, costs are being imposed so that litigants act responsibly and approach the Court only with true and complete facts.

42. Hence, following order is passed.

a) The writ petition is dismissed;

b) The order dated 1 November 2021 passed by the Divisional Joint Registrar refusing condonation of delay is upheld;

c) The petitioners shall pay costs of Rs.1,00,000/- (Rupees One Lakh only). The costs shall be deposited with the Maharashtra State Legal Services Authority within four weeks from today. Proof of payment shall be filed in the Registry within one week thereafter;

d) If the petitioners fail to deposit the amount within the prescribed time, the same shall be recovered as arrears of land revenue.

43. The writ petition stands disposed of.

44. At this stage, learned Senior Advocate for the petitioners prays for continuation of ad-interim relief. However, for the reasons stated in this judgment, request for continuation of ad-

interim relief is rejected.

(AMIT BORKAR, J.)