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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4697 OF 2013**

Smt. Nirmala Arvind PunamiyaPetitioner
Versus	
The Greater Bombay Co-op. Bank Ltd. & ors.Respondents

Shri B. K. Raje, advocate for the petitioner.
Mr. H. R. Pawar, advocate for respondent Nos. 1 & 2.

**CORAM : RANJIT MORE, J.
DATED : 30th August, 2013.**

P.C.:

Heard learned counsel for the respective parties.

2. By the impugned orders, the petitioner's objection to the proclamation of the sale under Rule 107 of the Maharashtra Co-operative Societies Rules 1961 came to be overruled.

3. Respondent No.3 obtained huge loans from respondent No.1. Respondent Nos. 4, 5 & 6 are the directors of respondent No.3 and stood guarantors to the loan obtained from respondent No.1.

4. Since respondent No.3 failed to repay the loan, respondent No.1 initiated proceedings under Section 101 of the Maharashtra Co-operative Societies Act, 1960. After hearing both the sides, the

competent authority granted certificate in favour of respondent no.1 and against respondent Nos. 3, 4, 5 & 6 for an amount of more than Rs.2,00,00,000/-.

5. Section 101 certificate has achieved finality. Thereafter respondent No.2 initiated recovery proceedings. Respondent No.6 was the tenant of the premises in question and respondent No.7 was the landlord. The said premises came to be attached by an order dated 15th December, 2008.

6. After proclamation of the sale of the said premises in question was issued, the petitioner filed an objection claiming to be tenants of the said premises. It is the case of the petitioner that respondent No.6 surrendered the tenancy on 5th December, 2008. On 4th April, 2009, respondent No.7 executed fresh lease in her favour. The lower authorities below, after hearing the parties and perusal of the documents on record, came to the conclusion that the document under which respondent No.6 surrendered the tenancy to respondent No.7 and the creation of tenancy right by respondent No.7 in favour of the petitioner is fraudulent one. Having perused the document annexed at Exhibit A2, I do not find any perversity or error in the finding arrived at by the lower authorities below .

7 Learned counsel for the petitioner relied upon the provisions of Section 60 of the CPC and stated that the premises in question which is being used for residential purpose could not have been attached. This statement has no merit inasmuch the petitioner's application to BEST for change of the meter shows that the subject premises was used as commercial premises.

8 Taking overall facts and circumstances of the case, I do not find any error in the finding of the lower courts below that the surrender of the subject matter premises by respondent No.6 to respondent No.7 is fraudulent. **The writ petition is, accordingly, dismissed.**

9 At this stage, Mr. Raje, learned counsel for the petitioner, seeks continuation of the interim stay granted earlier. In the interests of justice, the ad-interim relief granted by this Court is continued for a period of four weeks from today.

(RANJIT MORE, J.)