



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3914 OF 2026
WITH
INTERIM APPLICATION NO.2571 OF 2026
IN
WRIT PETITION NO.3914 OF 2026

Parbeen Khatun Ahmed Khan and Anr.

...Petitioners

V/s.

Divisional Joint Registrar, Co-operative
Societies and Ors.

...Respondents

Mr. Omprakash Dubey *for the Petitioners.*

Ms. M.S. Srivastav, *AGP for Respondent -State.*

Mr. Ajinkya A. Thakur *for Respondent Nos.2 and 3.*

CORAM: SANDEEP V. MARNE, J.

DATED: 7 JULY 2026.

P.C.:

1) The Petition is filed by the guarantors challenging the order passed by the Divisional Joint Registrar on 16 August 2024 (**Divisional Joint Registrar**) dismissing their revision application and confirming the attachment order dated 13 October 2021 passed by the Assistant Registrar, Co-operative Societies(**Assistant Registrar**) .

2) I have heard Mr. Dubey, the learned counsel appearing for the Petitioners, Ms. Srivastav, the learned AGP appearing for Respondent No.1-State and Mr. Thakur, the learned counsel appearing for Respondent Nos.2 and 3.

3) It appears that the Assistant Registrar has issued recovery certificate dated 13 October 2021 against the borrower- Mr. Pravin Kailashchandra Dubey and the Petitioners. The Petitioners have stood as guarantors to the loan availed by the borrower. It appears that the Petitioners did not challenge the recovery certificate dated 13 October 2021 before the Divisional Joint Registrar with a view to avoid deposit of amount under sub-section (2A) of Section 154 of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**). They conveniently challenged only the attachment order. Be that as it may. The Petitioners contend that a No Objection Certificate (**NOC**) was issued by the Respondent No.2- Credit Society on 7 August 2019. However, it appears that the Society has taken a plea that no such NOC was ever issued by it on account of the fact that outstanding amount continued to be reflected in the loan account.

4) Another contention sought to be raised before me is that the Respondent No.2-Credit Society has already taken symbolic possession of the borrower's asset. However, as rightly contended by the learned counsel appearing for Respondent No.2-Society that till the asset of the borrower is sold, the Society is entitled to recover due amount from guarantors. He has fairly submitted that in the event, any excess amount

remaining balance after sale of the asset of the borrower, the same can be adjusted against the amount recovered from the Petitioners.

5) It appears that Respondent No.2-Credit Society is yet to secure order from Chief Judicial Magistrate for taking over possession of the borrower's property. It therefore cannot be contended that the Respondent No.2-Society is precluded from proceeding against guarantors for recovery of its amount even during pendency of proceedings for conducting auction sale of borrower's property.

6) Writ Petition is accordingly **disposed of** without granting any relief in favour of the Petitioners. It is however, clarified that in the event of Respondent No.2-Credit Society recovers excess amount by auction of the assets of the borrower, the same shall be adjusted against the amount recovered from the Petitioners.

7) In view of disposal of the Petition, nothing survives to be adjudicated in the Interim Application, the same is accordingly disposed of.

[SANDEEP V. MARNE, J.]