

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 925 OF 2016

BHAWANI URBAN CO-OPERATIVE BANK LTD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Abhijit Choudhari h/f Mr. D.J. Choudhary
APP for Respondents: Mr. S.G. Karlekar
.....

**CORAM : S. S. SHINDE AND
V. K. JADHAV, JJ.**

DATED: 21st NOVEMBER, 2016

P.C. :-

1. Heard learned counsel for the petitioner and learned A.P.P. for the respondents.
2. This petition is filed being aggrieved by the inaction on the part of respondents in not extending police protection so as to execute the recovery certificate issued in favour of the petitioner.
3. Learned counsel appearing for the petitioner invited our attention to the reasons assigned in the impugned communication dated 12.1.2016, addressed by the Police Inspector, Police Station, Georai to the Special Recovery Officer of the petitioner Bank, that since the proceeding under Section 138 of Negotiable Instruments

Act 1881 are pending before the competent court, the police protection cannot be granted. It is submitted that once Recovery Certificate is issued by the competent authority, in absence of challenge to the said certificate, the police are bound to give the police protection for executing the said Recovery Certificate.

4. On the other hand, learned A.P.P. appearing for the respondents, relying upon the reasons assigned in the impugned communication, submits that in view of the reasons assigned in the impugned communication, prayers made in the petition cannot be granted.

5. Upon hearing learned A.P.P. for the respondents and upon perusal of the reasons assigned in the communication dated 12.1.2016 of the Police Inspector, Police Station, Georai, to the Special Recovery Officer of the petitioner Bank, we are of the opinion that pending proceedings under Section 138 of Negotiable Instruments Act cannot be construed as an impediment for granting police protection for execution of Recovery Certificate issued in favour of the petitioner, in accordance with law. In that view of the matter, the impugned communication dated 12.1.2016 (Exh.E page 23) is quashed and set aside. Respondent Nos.3 and 4 are directed to take decision afresh about the prayer of petitioner for grant of

police protection for execution of recovery certificate, as expeditiously as possible and preferably within four weeks from today and communicate the decision thereof to the petitioner.

6. Writ petition is allowed in the above terms and disposed of.

7. Registry to issue authenticated copy of this order to the requesting party.

8. Learned A.P.P. assures this Court that copy of this order will be sent to respondent Nos. 3 and 4 forthwith, by fastest mode of communication.

(V. K. JADHAV, J.)

(S. S. SHINDE, J.)

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