

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9786 OF 2016**

The Nashik District Central
Co-operative Bank Ltd.

....Petitioner.

Vs.

The State of Maharashtra & Ors.

....Respondents.

WITH**WRIT PETITION NO. 9788 OF 2016**

The Nashik District Central
Co-operative Bank Ltd.

....Petitioner.

Vs.

The State of Maharashtra & Ors.

....Respondents.

Mr. Rahul Sarda a/w Mr. Rahul Totala i/by Mr. Abhineet N. Pange for
the Petitioner in both the matters.

Mr. V.N. Sagare, AGP for the Respondent-State in both the matters.

**CORAM : ANOOP V. MOHTA AND
G.S. KULKARNI, JJ.**

DATE : 25 AUGUST 2016.

ORDER:-

Heard the learned counsel for the respective parties.

2 Admittedly, the challenge in both these Petitions are to an interim order passed by the Regional Assistant Director (Sugar) and Assistant Registrar, Co-operative Society, under Section 102 (1) of the Maharashtra Co-operative Societies Act, 1960 (*"the MCS Act"*). The

Petitioners were initially issued a show cause notice dated 30 March 2016 as they are the beneficiaries of action taken under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“*SARFAESI Act*”), in regard to the assets/properties of Nashik Sahakari Sakhar Karkhana Limited. The contention of the Petitioners in reply to the show cause notice is that the Petitioners have acquired rights in the properties under the SARFAESI Act, the same cannot be the subject matter of the proceedings under Section 102 of the MCS Act.

3 Admittedly, the Petitioners have approached this Court at the interim stage. The perusal of interim order dated 27 July 2016, clearly sets out that the final hearing of the proceedings is posted on 26 August 2016 at 11.00 a.m. and the Authority would hear the parties and pass a final order under Section 103(1) of the MCS Act.

4 In view of this position, we are not inclined to interfere in these Petitions, at this interim stage. The proceedings are at large before the said Authority and that the Petitioner would be granted hearing in that regard. If the Petitioner intends to file further reply

or/written submissions they are permitted to do so. Needless to observe that the Authority would take into consideration the plea as would be raised by the Petitioner and pass final order in accordance with law. All the contentions of the Petitioners as raised in these Petitions, are expressly kept open.

5 Ad-interim order dated 24 August 2016 passed by this Court, shall continue to remain in operation till the final order is passed by the concerned Authority and for a further period of two weeks, in the event the order passed is adverse to the Petitioner. Needless to observe that the Authority would proceed to hear the matter in accordance with law, uninfluenced by the order passed by this Court, today.

6 Both the Writ Petitions are accordingly disposed of, in the aforesaid terms.

The parties to act on the basis of an authenticated copy of this order.

(G.S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)