

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

WRIT PETITION (St.) NO. 25263 OF 2016

Manohar Kisan Ghughe

.. Petitioner

Vs

Special Recovery and Sales Officer
Greater Bombay Co-operative Bank
Mumbai & ors.

.. Respondents

Ms.Sujata Melekar, for the Petitioner.

Mr.Rishabh Shah a/w Mr.A.Mandviwala a/w Binjal Samani i/b
R.Shah & Co., for Respondent Nos.1 and 2.

Ms.Rita Yadav, for Respondent No.3.

***CORAM : N.M.Jamdar, J.
Friday, 16 September 2016.***

P.C. :

Not on board. Taken on production board by consent of parties, in view of the urgency.

2. The Petitioner is challenging the order dated 29 July 2016 passed by the Chief Metropolitan Magistrate, Esplanade, Mumbai directing the Court Commissioner to take possession of the attached property.

3. Heard learned counsel for the parties. The impugned order passed is a procedural order since a recovery certificate in favour of

the Respondent-Bank has been issued on 5 May 2014. The Petitioner has a remedy of challenging the certificate issued under Section 101 of the Maharashtra Cooperative Societies Act, 1960 by filing a Revision under Section 154 of the Act. In this Revision, it is open to the Petitioner to seek whatever relief he is entitled in law. Since this alternative remedy is available to the Petitioner, the interference in writ jurisdiction is not warranted.

4. The learned counsel for the Petitioner seeks some breathing time to file revision. Considering the fact that a recovery certificate has been issued almost two years back no indulgence of longer time as sought for can be granted. At the most it can be directed that the coercive action will not be taken against the Petitioner for seven working days from today. Order accordingly. With this clarification Writ Petition is disposed of.

5. If the Revision is filed it will have to be considered on its own merits and it is open to the Respondents to take all contentions including that of limitation.

(N.M.Jamdar, J.)