

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO.7467 OF 2015**

Smt. Asha Hirachand Pagariya.] ... Petitioner

Versus

The Special Recovery Officer & Sales]
Officer & Ors.] ... Respondents

Mr. Subhash Jha a/w Ms. Sanjana Pardeshi i/b Law Global for
Petitioner.

Mr. S. S. Kanetkar for Respondent Nos.1 and 2.

Mrs. R. A. Salunkhe, AGP for State – Respondent No.3.

CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.

DATE :- 08 DECEMBER, 2017

P. C. :-

1. The above Writ Petition filed under Articles 226 and 227 of the Constitution of India takes exception to the possession notice dated 25/07/2015 issued by the Respondent No.1 i.e. the Special Recovery Officer of the Respondent No.2 – Bank. Prior to the said possession notice, the Special Recovery Officer had issued an attachment order dated 10/07/2009 in respect of the property in

question which is appearing in the Schedule to the said possession notice. The Petitioner herein had raised objections to the said attachment under Rule 107 (19)(a) of the Maharashtra Co-operative Societies Rule, 1961. The said objections were filed before the Special Recovery Officer on 10/08/2009. The said objections were rejected by the Special Recovery Officer by order dated 16/05/2012. Against the said order, the Petitioner has filed Revision Application before the Divisional Joint Registrar, Co-operative Societies, Pune, being Revision Application No.166 of 2012. We are informed that the said Revision Application is as yet pending. However, insofar as the impugned notice dated 25/07/2015 is concerned, it is made clear that the said notice is subject to the outcome of the Revision Application. Since the Revision Application is pending and having regard to the fact that the same has been filed in the year 2012, it would be just and proper to direct the Revisionary Authority to dispose of the said Revision Application within a particular time-frame. Hence, the following directions :

- (i) The Revisionary Authority i.e. the Divisional Joint Registrar, Co-operative Societies, Pune, to hear and decide the Revision Application No.166

of 2012 latest by 28/02/2018. The parties to appear before the Divisional Joint Registrar on 15/12/2017. The Divisional Joint Registrar may, after the appearance of the parties, fix the schedule as per his convenience, but, however, decide the Revision Application within the outer limit fixed by the instant order.

- (ii) Needless to state that the contentions of the parties are kept open for being urged before the Divisional Joint Registrar, Pune. The Divisional Joint Registrar, Pune, may decide the Revision Application on its own merits and in accordance with law.
- (iii) The protection that is mentioned in the impugned notice dated 25/07/2015 would continue until the decision of the Revision Application.
- (iv) Since the petition is being disposed of, the ad-interim order operating in the above petition, would come to an end.

- (v) This order should not be construed as any expression of opinion on the merits of the matter and the Divisional Joint Registrar to decide the Revision Application in terms of the directions issued in the instant order.

2. With the directions as aforesaid, the Writ Petition is disposed of.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)