

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 5933 OF 2018

Balkrushna s/o Damodhar Amrutkar .. Petitioner
versus
The State of Maharashtra and others .. Respondents

Mr. P. R. Katneshwarkar, Advocate i/b Mr. Prashant M. Nagargoje,
Advocate for petitioner

Mr. S.N. Kendre, Assistant Government Pleader for respondents
no. 1 to 3

Mr. Mukul Kulkarni, Advocate for respondent no.4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 19th June, 2018

ORDER :

1. Heard learned counsel for the parties.
2. Petitioner purports to challenge communication dated 22-03-2018 pursuant to which the authority is stated to be proceeding with taking over possession of the property concerned, and, as such, writ petition.
3. There is no particular dispute on the aspect about petitioner had taken loan from *Yogeshwar Nagari Sahakari Patpedhi Maryadit*, Dhule and had been in arrears of repayment of the same and certain proceedings had been prosecuted under the Maharashtra Co-operative Societies Act, 1960 and rules thereunder and a certificate for recovery under section 101 of

the Act had been issued by the Assistant Registrar (Co-operative), Dhule.

4. It appears that in furtherance of the certificate, proceedings in execution had ensued which had culminated into order dated 04-10-2016 wherein it is being claimed on behalf of respondent - *Yogeshwar Nagari Sahakari Patpedhi Maryadit* that there has already been transfer of property in the name of said *Yogeshwar Nagari Sahakari Patpedhi Maryadit* and accordingly mutations have also been recorded and are subsisting.

5. It is submitted on behalf of the petitioner, on instructions, by learned counsel Mr. Katneshwarkar that an exception has been taken to order dated 04-10-2016 before revisional authority and the same is pending.

6. Learned counsel disputes extent of liability to be discharged under the certificate and tries to raise certain arguments in respect of the same.

7. He also purports to refer to order 12-01-2018 in writ petition no. 12669 of 2017 preferred by brother of the petitioner wherein a concession had been given on behalf of the *Yogeshwar Nagari Sahakari Patpedhi Maryadit* to grant hearing to said brother. However, the same had been in peculiar circumstances involved in the same.

8. It does not appear to be a case that recovery certificate had been posed with any challenge. There has been reluctance by the petitioner to show *bonafides* to indulge into request being made by him.

9. Factual position thus does not warrant that writ petition be entertained.

10. Writ petition, as such, is rejected. It is made clear, however, that this order and the observations herein would not put embargo on petitioner to take up appropriate proceedings as may be available in law and to prosecute pending proceedings, if any, on their own merits.

11. Learned counsel for petitioner submits that his possession may be protected for a fortnight in order to enable him to take out his belongings from the property. Such a request can always be made to the authority taking over possession. Learned counsel for respondent no. 4, on instructions, assures that authorities will not deal with petitioner inhumanly.

SUNIL P. DESHMUKH,
JUDGE

pnd