

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5578 OF 2014

Smt. Nirmala Mangalprasad Sharma ...
V/SPetitioner
The Maharashtra State Co-operative Housing
Finance Corporation Ltd. Nasik & Anr.Respondents
...

Mr. Omkar Khanvilkar i/b M/s. Solicis Lex for the Petitioner.
Mr. Sachin Kadam for the Respondent Nos.1 and 2.

**CORAM : A.A. SAYED &
V.L. ACHLIYA, JJ.**
DATE : 31 JANUARY 2018.

ORDER:

1 Leave to amend to incorporate the challenge to the Recovery Certificate issued by the Assistant Registrar, Co-operative Societies, Nashik as also the order of the Divisional Joint Registrar, Co-operative Societies, Nashik and consequential amendment in the body of the Petition. Amendments to be carried out forthwith.

2 It is an admitted position that the Petitioner is neither the borrower and/or guarantor. We find that the Recovery Certificate has been issued without application of mind. In the circumstances, we set aside the Recovery Certificate dated 28 October 2013 issued by the Assistant Registrar and all consequential actions based on the Recovery Certificate

as also the order dated 14 February 2014 passed by the Divisional Joint Registrar. The matter is remanded to the Assistant Registrar to decide the issue afresh.

3 Learned Counsel for the parties state that they will appear before the concerned Assistant Registrar on 15 February 2018 at 11 a.m. alongwith the copy of this order when appropriate directions be given by the Assistant Registrar. The Assistant Registrar shall hear the parties and pass a speaking order afresh.

4 The Writ Petition is disposed of on the aforesaid terms.

(V.L. ACHLIYA, J.)

(A.A. SAYED,J.)

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