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

WRIT PETITION NO.3301 OF 2019

M/s Rajeshwar Krushiseva Kendra,
Through its Proprietor
Shivdip Vijay Bijjamvar,
Age: 24 years, Occu: Business,
R/o. at Post Bodhadi, Near Vitthal Temple,
Bodhdi (B), Tq. Kinwat,
Dist. Nanded

..PETITIONER

VERSUS

1. The State of Maharashtra,
The Collector, Nanded,
Dist. Nanded
2. The Tahsildar, Kinwat,
Tq. Kinwat, Dist. Nanded
3. The Bhagyalaxmi Mahila Sahakari Bank Ltd. ,
Nanded, Through its authorized officer,
Bhagyalaxmi Bhavan, Mahavir Chowk,
Nanded
4. Abhay Bhimrao Mahjan,
Age: Major, Occu: Business,
C/o. Shruti Motors, Near Ashok Stamb,
At Post Kinwat, Tq. Kinwat,
Dist. Nanded
5. Dattatraya s/o Wamanrao Bandewar,
R/o. at Post Bodhadi, Near Vitthal Temple,
Bodhadi (B), Tq. Kinwat,
Dist. Nanded

..RESPONDENTS

Mr A. N. Barhate Patil, Advocate for petitioner;
Mr S. S. Dande, A.G.P. for respondent Nos.1 & 2

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

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DATE : 7th March, 2019**ORAL ORDER:**

Heard learned Counsel appearing on behalf of the petitioner.

2. The petitioner challenges the order dated 11th February, 2019, passed by the Collector, Nanded, whereby the Collector allowed the application filed by respondent No.3 - Bhagyalaxmi Mahila Sahakari Bank Ltd., Nanded and then further directed the Tahsildar to take possession of the property and hand it over to the authority of the said Bank.

3. It may not be necessary to refer to the details, suffice it to say that initially the notice of proposed possession of the property was issued by the officer of the Bank to the petitioner on 21st December, 2017. A publication to that effect was also made in the newspaper. The petitioner approached the Debts Recovery Tribunal by filing securitization application along with stay application. The order passed by learned Presiding Officer of the Debts Recovery Tribunal on 8th February, 2018 is placed on record to submit that the application is still pending before the Tribunal and meantime the order is passed by the Collector.

4. As it was brought to the notice of this Court in some petitions that parties were unable to take appropriate steps in view of the fact that the Debts Recovery Tribunal at Aurangabad is not functioning, as such, the

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petitions were filed. Subsequently, it was brought to our notice that Debts Recovery Tribunal at Pune is entertaining the applications or other proceedings which are initially filed in the Debts Recovery Tribunal at Aurangabad on account of non-availability of officer at Aurangabad. The petitioner is also ready to go before the Debts Recovery Tribunal at Pune by submitting appropriate proceedings in challenge to the order of the Collector and prays for protection till he approaches the Debts Recovery Tribunal and files application for interim orders, etc.

5. Learned Counsel for the petitioner submitted that if the protection is not granted, a coercive steps would be taken and an attempt to approach this Court would be a futile attempt. Learned Counsel is justified in making this submission for interim orders. Accordingly, the petition is disposed of with opportunity to the petitioner to approach the Debts Recovery Tribunal at Pune within a period of one week from today.

6. We direct the District Collector, Nanded, not to take any coercive steps, in furtherance of the order dated 11th February, 2019 for a period of one week only.

7. In case, the petitioner requests Debts Recovery Tribunal at Pune for taking up the proceedings of Securitization Application No.11 of 2018 and Stay Application No.1 of 2018, the Debts Recovery Tribunal may pass

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appropriate orders, needless to state on the applications filed by the petitioner.

With the aforesaid observations/directions, the petition is disposed of.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

sjk