

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8713 OF 2019
WITH
CIVIL APPLICATION NO. 10038 OF 2019

OSMANABAD JANTA SAHAKARI
BANK LTD THROUGH AUTHORIZED
OFFICER

...PETITIONER

VERSUS

ADDITIONAL COLLECTOR OSMANABAD
AND ANOTHER

...RESPONDENTS

Mr. S.B. Choudhari, Advocate for Petitioner
Mr. S.G. Karlekar, AGP for Respondents-State

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 26th AUGUST, 2019

ORAL ORDER:

1. Para Nos. 10 and 11 of Affidavit filed by the Tahsildar reads thus -

10. I say and submit that, the Circle Inspector issued notice to the non applicant Smt. Vijaya Shamkant Malba on 01/07/2019 to remain present on 04/07/2019 for giving possession to the petitioner. So also the Circle Inspector vide his letter dated 01/07/2019 also informed the petitioner about the date fixed for delivering the possession is 04/07/2019 and to take the necessary steps for obtaining the police protection, but surprisingly

the petitioner vide its' letter dated 3/7/2019 informed the Circle Inspector that as per the order of Respondent no.1 it is mandatory that the Respondent no. 2 should obtain the police protection and should deliver the possession to the petitioner. The copy of notice to the Non Applicant dated 01/07/2019 and the letter of Circle Inspector to the petitioner dated 05/7/2019 are annexed herewith and Marked as **Exhibit R-7**.

11. I say and submit that, as per the order of Respondent no.1, the present respondent was and is always ready to deliver the possession to the petitioner. In fact as per the order of Respondent no.1, the present respondent no.2 has each and every time communicated the Police station for providing the police protection but the petitioner had miserably failed to comply the order of Respondent no. 2 for paying the necessary expenses for police protection.

2. Mr. Choudhari, the learned Counsel for the petitioner submits that because of the shortage of time, the amount could not be deposited. The amount would be deposited as directed.

3. Para 16 of the affidavit also relevant. Same reads thus -

16. In view of the facts and circumstances, the petitioner may kindly directed to obtain the police protection by depositing the necessary expenses so that the possession can be delivered to him.

4. In view of the affidavit filed by the Tahsildar, the petitioner

should deposit the amount as directed, so that Tahsildar can take further steps so that respondent can take further steps. Of course, if there is no impediment such as prohibitory orders from the competent court. It is made clear that, we have not issued any directions in the present matter, but have recorded the affidavit filed by the respondents. The borrower and or the guarantor are free to take steps against the impugned order. All contentions are kept open.

5. The Writ Petition is disposed of. No costs.

6. In view of disposal of the Writ Petition, Civil Application stands disposed of.

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

mta