

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2191 OF 2029

Manohar Hariram Ahuja and ors. ... Petitioners

V/s.

The State of Maharashtra and ors. ... Respondents

Mr.Upendra Lokegaonkar i/by Mr.Y.R.Mishra, Advocate for the Petitioners.

Mr.C.D.Mali, AGP for Respondent No.1.

Mr.Jaywant Ghone, Advocate for Respondent Nos.2 and 3.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 22, 2019.

P.C.:-

1. Heard Mr.Upendra Lokegaonkar, learned counsel for the petitioners; and Mr.C.D.Mali, learned AGP for respondent No.1.

2. Learned counsel for the petitioners fairly submits that petitioners had filed another writ petition on the same subject matter being Writ Petition No.2801 of 2019. The said writ petition was dismissed by this court on 4th April, 2019, a copy of which order has been placed before the

court. Relevant portion of the order dated 4th April, 2019 reads as under:

“2. The only point canvassed by the learned counsel for the Petitioner for consideration is that the Special Recovery Officer has no authority/power to continue with the recovery procedure beyond the date mentioned in the Notification dated 18/03/2015 issued by the Additional Commissioner and Special Registrar, Cooperative Societies, State of Maharashtra, Pune and therefore the attachment of the residential flat by the said Recovery Officer is without any authority.

3. In response to the arguments advanced by the learned counsel for the petitioners, the learned counsel appearing for Respondent Nos.2 and 3 invites this Court's attention to the prayers made in this Writ Petition and submits that the prayer is for quashing the order dated 23/03/2016 passed by the Deputy Registrar thereby issuing the aforesaid recovery certificate, and pursuant to issuance of such certificate, the notice of attachment order was issued by the Special Recovery Officer on 16/04/2016. He submits that there is no prayer to quash the alleged attachment order issued in respect of the flat. He therefore submits that the Petitioners have efficacious alternate remedy under Section 154(2A) of the Maharashtra Cooperative Societies Act, 1960 and therefore there are no extra ordinary circumstances brought on record by the Petitioners before this Court so as to invoke its extra ordinary writ jurisdiction.

4. Upon hearing the learned counsel appearing for the Petitioners and the learned counsel appearing for Respondent Nos.2 and 3 as also upon perusal of the pleadings and the grounds raised in the Petition, the documents

annexed thereto and the prayers made in the Petition, this Court is of the opinion that the Petitioners have efficacious alternate remedy for redressal of their grievance raised in this Writ Petition. The Petition raises disputed question of facts. The Petitioners can file the revision under Section 154(2A) of the Maharashtra Cooperative Societies Act, 1960.

5. In the light of above, this Court is not inclined to entertain this Writ Petition. The Writ Petition is accordingly dismissed with liberty to the Petitioners to avail of an appropriate remedy as available under the provisions of the Maharashtra Cooperative Societies Act, 1960. The contentions of the parties are kept open for being urged before the appropriate authority at the appropriate stage.”

3. In the light of the above order dated 4th April, 2019, present writ petition is also dismissed with liberty to the petitioners to avail their remedy under the Maharashtra Co-operative Societies Act, 1960 keeping all contentions open.

4. Writ petition is dismissed.

(UJJAL BHUYAN, J.)

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