

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

WRIT PETITION NO.2801 OF 2019

Manohar Hariram Ahuja and ors. : Petitioners.

Versus

The State of Maharashtra

Through Ministry of Cooperation & ors. : Respondents.

Mr. Y R Mishra for the Petitioners.

Mr. S H Kankal for Respondent No.1.

Mr. K V Tembe for Respondent Nos.2 and 3.

CORAM : S. S. SHINDE, J

DATE : 04th April 2019

P.C.

1 This Writ Petition takes exception to the order of attachment dated 27/04/2016 issued by the Special Recovery & Sales Officer under Maharashtra Cooperative Societies Act, 1960 as also the order dated 23/03/2016 passed by the Deputy Registrar thereby issuing Recovery Certificate No.101/2254 of 2015.

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.

[S. S. SHINDE , J]