

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 4137 OF 2020

Mrs.Nilima Vinesh Raorane

..... Petitioner

VERSUS

**Dombivli Nagari Sahakari Bank Limited
& Ors.**

..... Respondents

Mr.Prathamesh Kamat, a/w. Mr.T.N.Tripathi, i/b. M/s.T.N.Tripathi & Co. for the Petitioner.

Mr.Ashutosh Gole for the Respondent no.1.

Mr.Rajan Pawar, A.G.P. for the State – Respondent nos. 4 and 5.

**CORAM : R.D.DHANUKA &
SURENDRA P.TAVADE, JJ.**

DATE : 16th MARCH, 2020

P.C.

Issue notice upon the respondent nos. 2 and 3 returnable on 8th June, 2020. Learned counsel for the respondent no.1 waives service. Learned A.G.P. waives service for the respondent nos.4 and 5.

2. The petitioner has challenged the constitutional validity of the Rule 107(11)(d-1)(vi) of the Maharashtra Co-operative Societies Rules, 1961. We are informed that the Writ Petition No.12209 of 2019 filed by Dr.Jayshri Pradip Khivansara vs. State of Maharashtra and others challenging the constitutional validity of the same provision has been admitted by this court on 28th November,2019. Issue notice upon the learned Advocate General.

3. Insofar as interim relief is concerned, Mr.Kamat, learned counsel for the petitioner on instruction states that his client would file an objection to the attachment to her alleged 50% share in the property in question before the Special Recovery Officer under Rule 107(19)(a) of the Maharashtra Co-operative Societies Rules, 1961 on or before 18th March,2020 and would serve a copy thereof upon the respondent no.1. The petitioner has agreed to remain present before the Special Recovery Officer on 23rd March,2020 at 11.00 a.m. for hearing of the objection.

4. Special Recovery Officer shall pass an order after hearing the petitioner on or before 26th March,2020. A copy of the order shall conveyed to the petitioner immediately.

5. If any adverse order is passed against the petitioner, the Special Recovery Officer of the respondent nos. 1 and 4 shall not dispossess the petitioner from the flat in question i.e. flat bearing no. B-107, First Floor, Raviraj Heritage Co-operative Housing Society Limited, Survey No.2A, Bhau Patil Road, Opposite Garden Bopadi, Pune – 411 020 for a period of one week from the date of communication of such order. It is made clear that the petitioner shall not create any third party rights in respect of her alleged 50% share in the said flat till further orders.

6. It is made clear that the Special Recovery Officer of the respondent no.1 shall decide the matter irrespective of the pendency of the writ petition filed by the petitioner in this court and on its own merits.

7. This court has not expressed any views on the merit of the

matter. All contentions of both the parties are kept open.

8. It is made clear that except to the extent the protection is granted by this court by this order, we are not inclined to grant any interim relief in favour of the petitioner.

9. The parties to act on the authenticated copy of this order.

10. If any adverse order is passed by the Special Recovery Officer against the petitioner, the petitioner would be at liberty to file appropriate proceedings in accordance with law.

[SURENDRA P.TAVADE, J.]

[R.D.DHANUKA, J.]