

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 381 OF 2020

Ram S. More & Anr.

...Petitioners

vs.

The State of Maharashtra & Ors.

...Respondents

Mr.Anoshak Daver with Nishit Tanna, Sachin Masurkar, Sunitha P and Archana Bhasare I/b.Sachin Masurkar for Petitioners.

Ms.Uma Palsuledesai, AGP for Respondent Nos.1 & 7 State.

Mr.Mahendra M. Agavekar for Respondent No.3.

Mr.Mandar Soman for Respondent Nos.4 to 6..

CORAM : S.C. GUPTE, J.

DATE : 5 FEBRUARY 2020

P.C. :

This writ petition challenges a recovery notice issued by Special Recovery Officer of Respondent No.3 Bank under the provisions of Maharashtra Co-operative Societies Act and the Rules framed thereunder for taking physical possession of a flat, which forms the subject matter of the present petition. The recovery notice is issued in pursuance of an order passed by the Chief Metropolitan Magistrate on 4 December 2019 appointing the authority as Special Recovery Officer for taking physical possession of the flat. The grievance of the Petitioner herein, who claims to be a *bona fide* purchaser of the subject flat with value and without notice, is that before taking any steps in respect of the subject flat, no hearing was given to the Petitioner. Though the Petitioner attended some dates for hearing of the matter, no hearing was given to him on those dates and suddenly the impugned orders came to be passed.

2 Learned Counsel for Respondent No.3 submits that the impugned orders may be quashed and set aside and the matter may be remitted to the Special Recovery Officer for hearing the Petitioner in the matter of attachment and sale of the subject flat. The impugned orders dated 4 December 2019 and 20 January 2020 are, accordingly, quashed and set aside and Respondent No.2 Special Recovery Officer is directed to hear the Petitioner in the matter of attachment, recovery of possession and sale of the subject flat. All rights and contentions of the parties on merits are kept open.

3 The writ petition is disposed of accordingly.

(S.C. GUPTE, J.)