

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

926 WRIT PETITION NO.11139 OF 2021

SULOCHANA PRURSHOTTAM GINDODIYA AND OTHERS
VERSUS
AGRASEN SAHAKARI PATSANSTHA MARYADIT THROUGH
LIQUIDATOR MANOJ MADHUKAR CHAUDHARI

...
Advocate for Petitioners : Mr. Subodh P. Shah
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CORAM : MANGESH S. PATIL, J.

DATED : 13/10/2021

PER COURT :-

1. Heard the learned advocate Mr. Shah for the petitioners.
2. The petitioners are the decree holders armed with a decree of eviction passed against the respondent credit society currently under liquidation. They aggrieved by the order passed by the executing court on the respondent's application (Exh-61), by which it requested the executing court to direct the petitioners to allow it access to the hard disks of the computers left behind by it in the demised premises while vacating it and to allow it to retrieve the data. After hearing both the sides by the impugned order the executing court permitted the respondent to retrieve the data.

3. Learned advocate Mr. Shah for the petitioners would submit that in fact the respondent had simply abandoned the demised premises leaving behind various movable properties including the computers. While executing the possession warrant even the movable property including the computers were handed over by the bailiff in the custody of the petitioners. The impugned order travels beyond the scope of the decree. Once having delivered the movable and immovable property in possession of the decree holder, there was no question of directing the petitioners to divulge even the data stored in the computers. The security interest has been created in favour of the petitioners and no further order could have been passed depriving them of such security. The decree is still to be fully satisfied. The petitioners are entitled to even seek a permission to sell the movable property to realize the decretal amount.

4. The learned advocate would further seek to draw analogy on the lines to the provisions of Section 108 Part B, clause (h) of the Transfer of Property Act to the effect that the lessee i.e. the respondent could have removed whatever was available in the demised premise while vacating and not afterwards. The impugned order has the effect of permitting the respondent to

make an exception to this provision.

5. I have carefully considered the submissions and perused the papers.

6. It is a matter of record that the petitioners are armed with a decree of eviction and have been delivered possession of the demised premise in execution of such a decree. The dispute as can be appreciated is only in respect of request of the respondent judgment debtor to have access to the computers which were left behind by it in the demised premise and which admittedly are in the custody of the petitioners, with the leave of the executing court so as to enable it to retrieve the data. Needless to state that the petitioners are entitled to and the executing court may permit him under Order XXI Rule 43 of CPC to sell the movable property including the computers.

7. The question here is regarding an intangible thing in the form of data that is stored in the hard disks of the computers. One cannot before hand judge as to what is actually stored in hard disks of those computers. The respondent is a credit society which is under liquidation. The request is now being made on its

behalf to retrieve that data, perhaps, with some hope that some important matter could be retrieved by the liquidator to help him to complete the liquidation process. If such is the state of affairs, in my considered view, the request of the respondent is indeed innocuous. Though the petitioners have a security interest over the movable property in the form of computers, in my considered view it would be like stretching too far if the petitioners can be said to have interest even in the data that is stored in the computers.

8. The executing court in its discretion has permitted the respondent to retrieve the data. There is no perversity and arbitrariness. The writ petition is dismissed.

(MANGESH S. PATIL, J.)

vsm/-