

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 890 OF 2019

PETITIONER :- Ravi Commercial Urban Co-operative Bank Ltd, Acting through its Chief Executive Officer, Shri.Siddhartha Vishnu Wase, aged about 48 years, Occup. Business, Head Office at Maskasath, Nagpur.

...VERSUS...

RESPONDENTS :-

1. The Police Commissioner, Office at Sadar, Nagpur.
2. The Police Inspector, Police Station Ranapratapnagar, Patap Nagar, Nagpur.
3. M/s Pawansut Real Estate and Land Developers, through its Prop.SMT. Dhyandevi Santoshrao Burewar
Aged about 40 years, Occu. Business
R/o Plot No.5, Cosmopolitine Society, Somalwada, Nagpur.

(Legal heir of deceased Shri. Santoshrao Kondbaji borrower and original owner of mortgaged properties in question).

Mr. D.N.Dani, counsel for the petitioner.
Mr. U.K.Bisen, counsel for the respondent no.3.
Mr.A.S.Fulzele, Addl.PP for the state.

**CORAM : SUNIL B.SHUKRE &
AVINASH G. GHAROTE, JJ.**

DATE : 22.01.2021.

ORAL JUDGMENT (Per : Sunil B.Shukre, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The reply tendered to the Court is taken on record. The reply shows that even the investigating officer is not sure about the description of the properties to which he has affixed a notice of they being seized by him under Section 102 of the Code of Criminal Procedure. It is well settled law that under Section 102 of the Code of Criminal Procedure, no immovable property can be seized and therefore, action of seizure taken under section 102 of the Code of Criminal Procedure is patently illegal. The learned Addl. PP on being asked by this Court, submits that no notification under Section 4 of the Maharashtra Protection of Interest of Depositors Act (in financial Establishments) Act, 1999 has been issued in this case. As the provisions of this Act have not been invoked at all against the respondent no.3, so whatever action that has been taken in the present case is only under section 102 of the Code of Criminal Procedure, which action as we

have just held is patently illegal.

4. In the result, petition is allowed, the impugned notice of seizure made under Section 102 of the Seizure dated 13.02.2016 made under section 102 of Cr.PC. is hereby quashed and set aside. If the properties are sealed, the respondent nos.1 and 2 are directed to remove the seized forthwith.

The petition is allowed accordingly

Rule is made absolute.

JUDGE

JUDGE