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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8964 OF 2012

Smt. Shobha Ramesh Sabane

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

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Mr. A. N. Irpatgire, Advocate for the petitioner

Mr. K. S. Patil, AGP for respondent - State

Mr. A. R. Nikam, Advocate for respondents No.4 and 5

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 3rd MARCH, 2022

ORDER :

1. The petitioner is aggrieved by issuance of order of attachment of her property pursuant to the recovery certificate issued under section 101 (1) of the Maharashtra Co-operative Societies Act, 1960 (hereinafter for short "the said Act") for recovery of ₹.2,17,470.85.

2. The petitioner earlier approached this Court by filing writ petition No. 6721 of 2009 challenging two recovery certificates dated 18th January, 2001 and 2nd March, 2005, issued against her under section 101 of the said Act. This Court, after considering the grievance of the petitioner, by order dated 28th September,

2010 gave following directions -

“In the situation, the two certificates; dt. 18.1.2001 and 2nd March, 2005, are kept in abeyance till the learned Special Recovery Officer decides the objection moved by the petitioner before him. Writ petition is allowed to the extent indicated above. The exercise to be done within a period of six months.

The amount deposited in this Court be credited to the Housing Finance Corporation, respondent No.4.”

3. After passing of this order, instead of deciding the objection raised by the petitioner, respondent No. 5 has proceeded to attach property of the petitioner by order dated 15th October, 2012, the same is challenged in the present writ petition. Respondent No.5 has filed a reply, wherein it is stated that the petitioner has filed objection to the respondent No. 5 on 2nd March, 2009, which has not been decided by the then Recovery Officer, Housing Finance, however, the present deponent is ready to decide the said objection as per order and directions given by this court, within the stipulated time.

4. On the face of it, the order attaching the property of the petitioner is arbitrary and illegal and the same is also in defiance of the orders passed by this Court on 28th September, 2010.

5. Learned advocate for respondent No.5 tendered

unconditional apology on behalf of respondent No.5 for not obeying the orders passed by this Court dated 28th September, 2010. The said apology is accepted.

6. For the aforestated reasons, the impugned attachment order dated 15th October, 2012 (page 69 Exhibit – P7) is hereby quashed and set aside. Respondent No.5 is directed to consider the objection of the petitioner in terms of the orders passed by this Court on 28th September, 2010, within a period of two months from the date of receipt of writ of this order, on its own merits.

7. Writ petition is disposed of in aforesaid terms.

[NITIN B. SURYAWANSHI]
JUDGE