

BDP-SPS-TAC

BHARAT
DASHARATH
PANDIT

Digitally signed
by BHARAT
DASHARATH
PANDIT
Date: 2022.06.25
16:03:51 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3728 OF 2022**

The Greater Bombay Co-operative
Bank Ltd.

.... Petitioner.

V/s

Mr. Ankush Prabhakar Yadav and Ors.

.... Respondents.

Mr. Harish R. Pawar for the Petitioner.

Mr. Prashant P. Kulkarni for Respondent No.1.

Mr. S.H. Kankal, AGP for Respondent Nos. 2 and 3.

CORAM: NITIN W. SAMBRE, J.

DATE: JUNE 24, 2022

P.C.:-

1] The order impugned is dated 18/11/2021 whereby Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai stayed execution of warrant of attachment notice dated 25th October, 2021 issued by Special Recovery and Sales Officer pursuant to the provisions of Section 156 of the Maharashtra Co-operative Societies Act read with Rule 107 of the Rules framed thereunder.

2] Fact remains that Petitioner has not questioned the Recovery Certificate issued under Section 101 of the Maharashtra Co-operative Societies Act. As such, liability fastened on Respondent No.1-guarantor and borrower has attained finality. Respondent No.1-guarantor and borrower have entered into settlement thereby agreeing

their liability to the tune of Rs 14,40,00,000/- and even certain collateral was given. However, such settlement which was entered into on 22/1/2014 is not acted upon till this date though sometime back i.e. in 2001, it is claimed that amount of Rs 7.5 crores was deposited towards partial satisfaction of the liability fastened under the Certificate issued under Section 101 of the Maharashtra Co-operative Societies Act.

3] In this backdrop, order impugned thereby staying execution of the warrant of attachment is not at all justified.

4] In that view of the matter, order impugned passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai on 18/11/2021 is hereby quashed and set aside.

5] Petition stands allowed in the above terms.

6] However, parties hereto agree that they shall cooperate Division Joint Registrar, Co-operative Societies in expeditious disposal of the Revision pending before the said Authority. As such, hearing of the Revision is expedited.

(NITIN W. SAMBRE, J.)