

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1683 OF 2022

Ashutosh Dilip Kurhade & Ors.

...Petitioners

Versus

Special Recovery Officer, Karnal & Ors.

...Respondents

Mr.P.B. Shah a/w Ms.Gunjan Shah i/b Mr.K.P. Shah for the
Petitioner.

Mr.S.V. Khaire for the Respondent Nos.1 and 2.

Mrs.M.S. Bane, AGP for the Respondent-State in both Writ
Petition.

CORAM : R.D. DHANUKA &
S.G. DIGE, JJ.

DATE : 30 NOVEMBER 2022

P.C:-

. By this Petition, under Article 226 of the
Constitution of India the Petitioner seeks writ of certiorari and
writ of mandamus against the Respondent-Bank to remove their
attachment over the subject property described in prayer clause
(c) of the Petition and seeks further direction to dispose of the
Application dated 29 November 2010 filed under the provisions
of the Sub-rule 19 of Rule 107 of the Maharashtra Co-operative
Societies Rules, 1961 by the deceased Dilip (Predecessor of the
Petitioners) raising objections to the attachment pursuant to the

order dated 4 October 2010 passed by this Court in WP No.9403 of 2009.

2. In view of the contentions raised by the Petitioners that the Application dated 29 November 2010 filed by the Predecessor of the Petitioner having been not disposed of by the Special Recovery Officer, the Special Recovery Officer filed an affidavit in this Writ Petition placing on record the order passed by the Special Recovery Officer dated 24 March 2010 rejecting the objections raised by the predecessor of the Petitioners.

3. The Petitioners however are still not satisfied with the reply given by the Special Recovery Officer and the documents produced and continued to insist that the said order is doubtful.

4. This Court therefore directed the Special Recovery Officer to produce the original record and proceedings for perusal of this Court. The learned counsel for the Special Recovery Officer has produced the copy of the order duly signed by the Special Recovery Officer and the acknowledgment of the receipt of the said order, the original roznamma of the proceedings and also the Vakalatnama filed by the predecessor of the Petitioners in favour of his advocate.

5. After perusing the original documents we are satisfied that the objections filed by the predecessor of the Petitioner were already considered and disposed of on 24 March 2011. The said order was also communicated to the predecessor of the Petitioners.

6. The stand taken by the Petitioners that no order is passed by the Special Recovery Officer in the Writ Petition as well as the affidavit in rejoinder are ex facie false and incorrect.

7. The Writ Petition is accordingly dismissed. No order as to costs.

8. The original documents produced by the Respondent No.1 are returned to the learned counsel.

(S.G. DIGE, J.)

(R.D. DHANUKA, J.)