

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7238 OF 2022

D.V. Prabhakar Reddy

... Petitioner

Versus

Shivjyoti Sahakari Patpedhi Ltd & Ors.

... Respondents

....

Mrs. Manisha Keswani, Advocate for the Petitioner.

Mr. Sampatrao Pawar, Advocate for Respondent No.1.

Mrs. M.S. Bane, AGP, for Respondent Nos.2 & 3 – State.

....

**CORAM : R. D. DHANUKA AND
M. G. SEWLIKAR, JJ.**

DATE : 23rd JUNE, 2022

PC. :

1. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the order passed by respondent No.2 on 14th October, 2020.

2. It appears that the respondent No.1 had filed proceedings under Section 101 of the Maharashtra Co-operative Societies Act, 1960 against Mr. Nilesh Maruthi Bandekar for issuance of recovery certificate alleging default of repayment of loan granted by respondent No.1 bank to said Mr. Nilesh Bandekar. The Assistant Registrar issued a certificate under Section 101 of the Act. It appears that said certificate was not challenged by the said Mr.

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Nilesh Bandekar.

3. The respondent No.1 thereafter took further steps to execute the said certificate. The Special Recovery Officer of the respondent No.1 bank passed further orders for execution of the said certificate. The respondent No.1 thereafter applied for various reliefs under Rule 107(11)(D-1)(VI)(A) of the Maharashtra Co-operative Societies Rules, 1961 before the Additional District Magistrate, Thane. The learned District Magistrate allowed the said application and permitted the respondent No.1 to take possession of the said flat.

4. It is the case of the petitioner that the petitioner has purchased the said flat which is subject matter of the proceedings, before the authorities, initiated by the respondent No.1, from said Mr. Nilesh Bandekar under registered agreement for sale. The petitioner claims to be in possession.

5. Since both the parties claim to possess the original title deeds in respect of the said flat, we permit the petitioner to file proceedings under Rule 107 of the Maharashtra Co-operative

Societies Rules, 1961 before the concerned authority within two weeks from today. The proceedings shall be served upon the respondent No.1. The respondent No.1 is also at liberty to apply for stay of the recovery proceedings. If any such application is filed, the authority shall consider said application within one week from the date of respondent No.1 filing such application. The respondent No.1 shall not take any coercive steps insofar as the said recovery certificate obtained under Section 101 of the Maharashtra Co-operative Societies Act, 1960 against the petitioner for a period of four weeks from today. It is made clear that this Court has not expressed any views on merits of the certificate under Section 101 of the Act or in respect of the impugned order which is subject matter of this petition. All contentions of both the parties are kept open.

6. Writ Petition is disposed of in the aforesaid terms.
7. Parties to act upon the authenticated copy of this order.

(M. G. SEWLIKAR, J.)

(R. D. DHANUKA, J.)