

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**44 CIVIL APPLICATION NO.3393 OF 2023
WITH
RAST/5167/2023
IN
WP/9280/2021**

**M/S SHREE ANNAPURNA CATERERS
THROUGH ITS PARTNER SWAPNIL DULICAND JAIN AND
ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH THE SECRETARY AND OTHERS**

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**Advocate for Applicants: Mr. Dodya Shrigopal G
AGP for Respondent/State: Mr. K. B. Jadhavar**

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CORAM: ARUN R. PEDNEKER, J.

DATE: 13th MARCH, 2023

PER COURT:

1. The application for condonation of delay of 54 days in filing the review petition is allowed.

2. The learned counsel for the applicant submits that there are procedural lapses in issuing recovery certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 and, therefore, this court ought to have exercised

it's jurisdiction. The Applicant does not dispute that he has taken loan. His only contention is that there were procedural lapses in granting recovery certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 to respondent no.3. However, this aspect has already considered by this court in paragraph no.3 of the Judgment under review and, thus, this matter cannot be re-adjudicated. The learned counsel also submits that while exercising the jurisdiction the High Court cannot impose condition of deposit and pointed out the order passed by the Hon'ble Supreme Court, wherein condition to deposit of price of land till the hearing of the writ petition, was not approved in the case of **Grand Vasant Residents Welfare Association and another Vs. DDA and another, (2005) 12 SCC 281,.**

3. In the instant case, the applicant does not dispute that he has taken loan and the amount has to be repaid to the Bank. On the aspect of the procedural lapses in issuing Recovery Certificate under Section 101 of the Maharashtra

Co-operative Societies Act, 1960 this court can certainly ask to deposit the loan amount taken or at least 50% of the outstanding recovery dues before entertaining the writ petition. Recovery Certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 can be challenged in Revision Petition only on statutory condition of deposit of 50% of amount due and similar condition can also be imposed while exercising writ jurisdiction.

4. In view of the same, there is no merit in the review petition and the same is dismissed.

[ARUN R. PEDNEKER, J.]

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