

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 WRIT PETITION NO.3863 OF 2023

ABBASBHAI SANDALBHAI SHAIKH AND OTHERS
VERSUS
THE CHAIRMAN SAMPADA NAGARI SAHAKARI PATSANSTHA
AND OTHERS

.....
Advocate for Petitioners : Mr. Arora Shyam C.
AGP for Respondents: Mr. V.M. Kagne
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 5th APRIL, 2023.**

PER COURT :-

1. The Petitioners seek to challenge the notice issued by the Special Recovery and Sale Officer of the Sampada Nagari Sahakari Patsanstha, Ahmednagar. It pertains to the recovery of amount which is quantified under Section 101 of the Maharashtra Co-operative Societies Act, 1960. The Petitioner has not preferred a Revision Petition under Section 154 of the Societies Act, for challenging the said Recovery Certificate. The decision u/s 101 is, therefore, rendered final and executable. Consequent thereto, the Special Recovery and Sale Officer issued a notice under Section 107 of the Societies Act r.w. Rule 11(d-1) of the Maharashtra Co-operative Societies Rules, 1961, on 01.02.2023.

2. The Petitioners seek issuance of a Writ of Mandamus to the Special Recovery and Sale Officer of a private Co-operative Society.

We find that neither Respondent No.2 would be within the definition of 'State' under Article 12 of the Constitution of India nor the Petitioner has challenged the quantification under Section 101 of the Societies Act, before the appropriate forum. Since the quantified amount is now recoverable, the Petitioner has no option but to deposit the said amount.

3. The learned advocate for the Petitioners prays that the Assistant Registrar, Co-operative Societies, may be directed to look into this matter, since the Petitioners desire to file a representation setting forth their grievance before the Assistant Registrar.

4. In view of the above, this Petition is disposed off.

5. If the Petitioners tender a representation to Respondent No.3, setting forth their grievance, Respondent No.3 may consider the same, provided he has the jurisdiction to deal with such representation under any provision of law, and only then pass appropriate orders, as is permissible in law.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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