

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

WRIT PETITION NO. 8293 OF 2023

Ramesh Shripati Rohakale

.. Petitioner

Versus

The State of Maharashtra
Through its Secretary and others

.. Respondents

Mr. Amol S. Gandhi, Advocate for the Petitioner.
Mr. S. B. Pulkundwar, AGP for Respondent Nos. 1 to 3.

CORAM : KISHORE C. SANT, J.

DATED : 20th JULY, 2023.

P C. :-

. Heard learned advocate for the petitioner for some time and learned A.G.P for respondent Nos. 1 to 3.

2. The petitioner has challenged the action taken pursuant to issuance of certificate under Section 101 of the Maharashtra Co-operative Societies Act (for short “MCS Act”). He has also prayed for quashing and setting aside the certificate under Section 101 of the MCS Act. His submission is that, though the petitioner had repaid the entire loan amount, still the action is taken against him. He submits that, the application for recovery was filed in the year 2013 itself, however, there was no notice received by the petitioner. As a matter of fact, the

petitioner and respondent - society were litigating before this Court i.e. Writ Petition No. 3605/2012 and that was decided on 04.01.2016. The respondent - society however, did not brought this fact of filing of proceeding under Section 101 of the MCS Act to the notice of this Court. Thus, the petitioner could not get the knowledge of filing of recovery certificate even when he was proceeding with the petition in this Court. It is only when his property came to be attached by order dated 29.09.2022 he came to know about the same. He submits that, this property was also not marked any time for the alleged loan amount. Thus, the action itself is totally illegal.

3. Learned A.G.P. submits that, this petitioner cannot approach directly this Court when remedy is provided under Section 154 of the MCS Act of filing revision before the District Deputy Registrar.

4. This Court finds that, when alternative remedy is provided, it would not be proper to entertain the writ petition. The concern of the petitioner is that, since the order under Section 101 of the MCS Act is passed long back i.e. on 30.09.2013, there would be delay in filing the revision. In view of this, the following order is passed.

5. The writ petition stands disposed off with liberty to the petitioner to file revision under Section 154 of the MCS Act. The authority before

whom the revision would be filed shall consider the application for condonation of delay by considering the facts of this case.

(KISHORE C. SANT, J.)

PS.B.