

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

WRIT PETITION NO. 8487 OF 2022

Shri Agrasen Sahakari Patsanstha
Ltd. Through its Liquidator
Manoj Madhukar Choudhari .. Petitioner

Versus

Sulochanadevi Purushottam Gingodiya .. Respondent

Shri V. D. Hon, Senior Advocate i/by Shri A. V. Hon, Advocate for
the Petitioner.

Shri Amit. S. Savale, Advocate for the Respondent.

**CORAM : SHARMILA U. DESHMUKH, J.
DATE : 20TH JANUARY, 2023.**

FINAL ORDER :

. Heard.

2. The petitioner is aggrieved by the order dated 23rd March, 2022, whereby the Executing Court has rejected its application for permission to depute it's team of experts to access four computers, which are attached, in order to retrieve the data from the computers, permitted by order of this Court dated 25th July, 2019 passed in Writ Petition No. 9019 of 2019 and order dated 13th October, 2021 passed in Writ Petition No. 11139 of 2021.

3. Shri Hon, learned senior counsel for the petitioner submits that the petitioner has been appointed as a liquidator of Shri Agrasen Sahkari Patsanstha Limited and the respondent, who is a decree holder has attached the computers of the society

pursuant to a decree for recovery of money. Learned senior counsel submits that the functioning of the office of the liquidator has been stalled as the entire data is contained in the four computers, which are attached and lying in the premises of the respondent.

4. Per contra, learned counsel appearing for the respondent submits that repeated attempts have been made to stall the execution proceedings. He would further submit that the impugned order has been passed taking into consideration the report of the team of the experts deputed by the Executing Court to take a review of the computers and its position. He would further contend that as per report of team of experts deputed by this Court three of the computers are completely in-operational and only one computer is found to be operational. As there was no hardware support in respect of the computer which was functioning, the expert team could not retrieve the data.

5. I have considered the rival submissions of the parties.

6. The admitted position is that the data pertaining to the petitioner society is contained in those four computers, which are attached and the functioning of the liquidator has been affected due to absence of data. This Court by considering said position in the previous writ petitions had permitted retrieval of the data. The Executing Court has rightly deputed his team to find out the position of the computers in order to execute orders passed in Writ Petition No. 9019 of 2019 and Writ Petition No. 11139 of 2021 so that the data could be retrieved. As per the report of the team of experts deputed by this Court it is clear that it is not

possible to retrieve the data in view of the fact that three of the computers are completely shut and as far as computer which is operational is concerned, there is no hardware support.

7. In spite of the above, fact remains that every attempt has to be made to retrieve the data as in absence of the data, it will not be possible for the liquidator to carry out his function. In my opinion, no harm would be caused if computers are called for in the Court premises wherein the team of experts deputed by the liquidator would examine the computers and make an attempt to retrieve the data.

8. In view of the above, following order is passed.

- a) The impugned order dated 23rd March, 2022 is hereby quashed and set aside.
- b) The Executing Court to issue necessary directions to call for the computers in the Court premises, which will be examined by the team of experts deputed by the liquidator.
- c) All costs shall be borne by the liquidator. This exercise be carried out within a period of four (04) weeks from today.

9. Needles to clarify that there is no stay to the execution proceedings. Writ Petition is allowed in the above terms.

[SHARMILA U. DESHMUKH, J.]