

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

WRIT PETITION NO. 3110 OF 2021

The Shivajirao Bhosale Sahakari
Bank Ltd. and Ors.

... Petitioners

V/s.

Mangaldas Vitthal Bandal and Ors.

... Respondents

with

WRIT PETITION NO. 3111 OF 2021

The Shivajirao Bhosale Sahakari
Bank Ltd. and Ors.

... Petitioners

V/s.

Rekha Mangaldas Bandal and Ors.

... Respondents

Mr. Aadesh Patil i/b. M.B. Patil and V.H. Narvekar for the
Petitioners

Mr. Suhas S. Deokar i/b. SSP Legal for the Respondent No.3

***CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.***

DATE : 14 DECEMBER 2023

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner No.1 is a Co-operative Bank, the Petitioner No.2 is a Recovery Officer and the Respondent Nos. 3 and 4 are also the Banks, with Respondent Nos. 1 and 2 being the original borrower of the Petitioner.

3. The Petitioner – Bank applied for and was granted recovery certificate on 12 January 2009 for an amount of Rs.1,27,32,110/-. Thereafter, a demand notice was issued by the Petitioner to the Respondent – borrowers that if the amount is not paid, the Petitioner would proceed to take action as per the provisions of the Maharashtra Co-operative Societies Act, 1960 and Maharashtra Co-operative Societies Rules, 1961. Thereafter, there is an administrator appointed on the Petitioner – Bank. Since it is the case of the Petitioner that inspite of taking action of attachment on 30 December 2019, the Respondent Nos. 3 and 4 - Banks are not giving effect to it and it has filed this Petition to remit the amount pursuant to the attachment order. The Petitioner has alleged collusion between the borrowers and the Respondent Nos.3 and 4 Banks.

4. The learned Counsel for the Respondent Nos. 3 and 4 – Banks states that they have raised the question as to the manner in which the amount has sought to recover by the Petitioner – Bank proceeding against the amount in the account of Respondent Nos. 1 and 2. How these Respondent Nos. 3 and 4 can raise this ground,

which is to be taken by the borrower is not understood. It is the borrower who can have a grievance in respect of manner in which the amount is sought to be recovered by the Petitioner – Bank. It is not the case of the Respondent Nos.3 and 4 that they have any lien or charge in respect of the account of Respondent Nos. 1 and 2 in their banks. The Respondent Nos. 1 and 2 are not before us. This stand is not acceptable at the behest of the Respondent Nos. 3 and 4.

5. This Writ Petition is pending since the year 2021. According to us the appropriate course of action would be to permit the Administrator appointed on the Petitioner – Bank to communicate to the Respondent Nos. 3 and 4 to give effect to the attachment dated 30 December 2019 and sending the copy of the communication to Respondent Nos. 1 and 2 and within the stipulated time if no restraint order is passed by any competent court of law, the Respondent Nos. 3 and 4 to give effect to the attachment.

6. Accordingly, the Writ Petitions are disposed of by the following order.

7. The Administrator of the Petitioners is permitted to address the communication to Respondent Nos. 3 and 4 to give effect to the attachment order dated 30 December 2019 within a period of one month from the date of the receipt of the communication by Respondent Nos. 3 and 4 simultaneously,

marking a copy to the Respondent Nos. 1 and 2. If the Respondent Nos. 1 and 2 do not obtain any order from any competent court of law restraining the Respondent Nos.3 and 4 from proceeding to act as per the attachment order, provided it is permissible in law to do so and subject to limitation, then the Respondent Nos. 3 and 4 upon expiry of one month of the notice will act upon the attachment order and extend all co-operation to the Petitioners.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
PRAKASH
PAWAR
Date: 2023.12.18
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