

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

WRIT PETITION NO.5925 OF 2023

Kavita Ashok Jethwa

.....Petitioner

Versus

State of Maharashtra
and others

.... Respondents

Mr. Bhavesh Parmar, Advocate i/b. Devmani Shukhla for the
Petitioner.

Mr. C.D. Mali, AGP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th APRIL, 2023

P.C. :

1. The Petitioner has approached this Court with a prayer for quashing and setting aside the order dated 20.3.2023 passed by the District Deputy Registrar, Co-operative Societies (4), Mumbai. By the impugned order, the Revisional Authority has simply adjourned the matter when the Petitioner's stay application was pending.

2. In my opinion, this is a very premature stage and, therefore, at this stage, I am not inclined to grant any relief in this Petition. However, it does appear that the Revision Application is pending and even stay application is

not decided by the Revisional Authority. Therefore, to a limited extent, I am inclined to issue directions to the Revisional Authority on the basis of the submissions made by learned counsel for the Petitioner.

3. Learned counsel for the Petitioner submitted that the subject matter of the Revision application is the loan taken by the partnership firm of the Petitioner's husband and the son. While obtaining the loan, the shop of the partnership was given as security. It was mortgaged. The Petitioner's flat has nothing to do with the loan transaction. The recovery certificate under Section 101 of the Maharashtra Co-operative Societies Act was issued against the Petitioner's husband and son. The Recovery Officer in violation of law attached and took possession of the Petitioner's flat which stood in her exclusive name. He submitted that there was clear violation of Rule 107(4)(ii), 107(19)(a) of the Maharashtra Co-operative Societies Rules, 1961 (for short, 'MCS Rules'). The Petitioner was required to be heard by the Recovery Officer before taking any coercive steps in respect of her flat. The Petitioner had

approached the Revisional Authority for suitable directions to the Recovery Officer to follow the procedure prescribed under the MCS Rules, however, that Revision Application is not yet decided and even the stay application is not yet decided and, therefore, the Petitioner has approached this Court.

4. The submissions of learned counsel for the Petitioner has some force. Since the Revision Application is pending, in the circumstances since the Petitioner is dispossessed from her flat, the Revisional Authority is required to decide the Petitioner's Revision Application at the earliest.

5. Considering the overall circumstances and the submissions made before me today, the Revisional Authority i.e. the District Deputy Registrar, Mumbai (4) is directed to decide the Petitioner's Revision Application within a period of three weeks from today.

6. With these directions, the Petition is disposed of.