

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8514 OF 2023

Athashree Enterprises Thr. Its
Partners

... Petitioner.

V/S.

Arun Developers And Ors

... Respondents.

.....

Mr.Hemant Ghadigaonkar a/w.Ms.Pallabi Chatterjee for the
Petitioner.

Ms.Pushpalata Khot i/b. Mr.Umesh Mankapure for Respondent
No.1.

Mr.S.N.Biradar for the Respondent No.2.

Mr.N.K.Rajpurohit AGP for Respondent No.3.

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

DATE : 04 September 2023.

P.C. :

Heard learned counsel for the parties. The Petitioner is aggrieved by the action taken by Respondent No.3/Collector dated 2 March 2023 against the property claimed to be owned by the Petitioner (under Section 156 of the Maharashtra Co-operative Societies Act, 1960).

2 The Petitioner claims to be unconnected with the loan transaction between the original borrower and the Bank/Respondent No.2 and claims to have legitimately purchased the property by the approval of the Respondent No.2/Bank. Learned Counsel for the Petitioner submitted that the action taken by the Collector under Section 156 of the Act is without jurisdiction and entirely unnecessary.

3 The Respondent No.3/Collector has proceeded under Section 156(1)(e) in view of a Certificate granted by Registrar proceeding under Section 101 of the Act of 1960. The learned counsel for the Respondent/Bank points out that the Petitioner has filed regular Civil Suit No.172/2021 in the Court of Civil Judge, Junior Division, Vadgaon, Maval, District Pune and has sought to restrain Bank from proceeding further and obstructing the possession of the Petitioner. Learned counsel states that the application for interim injunction was rejected by the learned Civil Judge by order dated 5 May 2022 and Misc.Appeal No.108/2022 filed by the Petitioner was dismissed by order dated 29 September 2022 and thereafter the Petitioner has filed Writ Petition (St)No.29600/2022 (Writ Petition No.1998/23), which is pending.

4 Learned counsel for the Petitioner, after arguing for some time, on instructions states that Petitioner will pursue the statutory remedies as are available under the Act of 1960 and also the Civil Suit and the Writ Petition. He states that the protection granted by

this Court in this Writ Petition by order dated 10 July 2023 be continued for some time. The learned counsel for Respondent Bank opposes.

5 We have noted order dated 10 July 2023, wherein the Division Bench after making certain observations has stayed the impugned order dated 2 March 2023. Considering the facts and circumstances and that the Petitioner has submitted that he will adopt the remedies as above, we are inclined to continue the protection for some time, however, with certain clarification.

6 The ad-interim order dated 10 July 2023 shall continue for a period of six weeks. However, we make it clear that any continuation or non-continuation of the position under the ad-interim order will be considered by the Court/Authorities on its own merit without being influenced by the grant or continuation of this ad-interim order.

7 The Writ Petition is accordingly disposed of keeping contentions of the parties open.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)