

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6086 OF 2023

Sudhir Sadashiv Jawale

.....Petitioner

Vs.

District Collector, Collectorate Office,
Pune and Ors.

.....Respondents

Mr. Sagar Jadhav a/w. Ms. Riya John and Mr. Navin Rathod for petitioner.
Mr. Hemant Ghadigaonkar for respondent.
Ms. K.N. Solunke, AGP for State.

CORAM : K. R. SHRIRAM &
RAJESH S. PATIL, JJ.
DATED : 4th MAY 2023

PC. :

1 On 15th March 2023 this Court was pleased to pass the
following order :

1. At the outset Mr. Ghadigaonkar appearing for Respondent No.3 submitted that Rule 107 (19) of The Maharashtra Co-operative Societies Rules, 1961 provides for an alternative remedy in the sense if any objection is to be made by any party to the attachment to any property, the party may apply to the Recovery Officer who in this case is Respondent No.4 and Recovery Officer shall investigate the claim or objection and dispose it on merits.

2. Mr. Badgujar for petitioner states that petitioner will file objection before Respondent No.4 within one week to the order of attachment. Mr. Ghadigaonkar states that the Recovery Officer will pass appropriate order within four weeks of receiving the objections and if petitioner requests for a personal hearing, a personal hearing can also be granted.

3. In view of the statement made by Mr. Badgujar and Mr. Ghadigaonkar as above, we dispose the petition.

4. We clarify that we have not made any observations on the merits of the matter.

5. Petition disposed.

6. Mr. Ghadigaonkar states until the objections are decided, it is quite obvious Respondent No.4 will not take any further coercive steps.

7. Consequently, all Interim Applications also stand disposed

2 Mr. Jadhav for petitioner states that the objections dated 18th March 2023 under Rule 107 (19) of the Maharashtra Co-operative Societies Rules 1961 was submitted before the Special Recovery Officer on 20th March 2023. Mr. Ghadigaonkar feels that it has not been delivered at the right place, which is disputed by Mr. Jadhav.

3 Be that as it may, respondent no.2 – the Tahsildar perhaps was not aware of the order passed by this Court on 15th March 2023. Mr. Jadhav states that the order was not communicated to the Tahsildar earlier but has been communicated to him on 29th April 2023.

4 One thing is certain that in view of our order of 15th March 2023, the Tahsildar cannot attach the property. Therefore, until fresh orders are issued by the Special Recovery Officer after hearing the objections filed by petitioner, no notice of attachment shall be issued by the Tahsildar.

5 To put an end to the controversy as to where the objections were given, Mr. Ghadigaonkar is directed to inform the Special Recovery Officer that objections have been filed and he shall make available copy of the objections which has been annexed to the petition as well as in the compilation filed by petitioner. The Special Recovery Officer to dispose the objections within four weeks from today.

6 We clarify that the Tahsildar may go ahead and take possession of the property belonging to the borrower and not petitioner.

(RAJESH S. PATIL, J.)

(K. R. SHRIRAM, J.)