

**Dusane**

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

**WRIT PETITION NO.8799 OF 2023**

Silver Arch CHS Limited

...Petitioner

V/s.

M.T. Mody & Ors.

...Respondent

Mr. Yashodhan Divekar a/w Mr. Pawan Rajpal a/w  
Pratiksha Mane i/by M/s Divekar & Co. for  
Petitioner.

Mr. Viraj Parikh a/w Mr. V.S. Vengurlekar i/by M/s  
Nair Vengurlekar & Co. for Respondent Nos. 1 and  
2.

Mr. C.D. Mali, AGP for State- Respondent Nos.3 and  
4.

**CORAM: MADHAV J. JAMDAR, J.**

**DATE: 11th October 2023**

**P.C.:**

**1.** Heard Mr. Divekar, learned Counsel appearing for the  
Petitioner, Mr. Parikh, learned Counsel appearing for  
Respondent Nos. 1 and 2 and the learned AGP, appearing for  
the State-Respondent Nos. 3 and 4.

**2.** The challenge in this petition is to the legality and validity  
of the order dated 10<sup>th</sup> April 2023, by which the District Deputy  
Registrar, Co-operative Societies, Mumbai admitted the Revision

Application filed by the Respondent Nos.1 and 2 challenging Recovery Certificate dated 16<sup>th</sup> May 2008 issued by the Joint Registrar of Co-operative Societies, Mumbai in Recovery Application No. 31 of 2008. The District Deputy Registrar, by the impugned order held that as the Recovery Certificate is for an amount of Rs.34,48,000/-, 50% deposit of that amount is in compliance of Sub-section (2A) of Section 154 of the Maharashtra Co-operative Societies Act, 1960. (hereinafter referred to as "**the said Act**"). Sub-Section (2A) of Section 154, reads as under:

"154. Revisionary powers of State Government and Registration--.....

[(2-A) No application for revision shall be entertained against the recovery certificate issued by the Registrar under Section 101 or Section 154-B-29 or Certificate issued by the liquidator under Section 105 **unless the applicant deposits with the concerned society, fifty per cent amount of the total amount of recoverable dues:**"

Provided that, in case of such revision where revisional authority has granted a stay to the recovery of dues, the authority shall, as far as may be practicable, dispose of such revision application as expeditiously as possible but not later than six months from the date of the first order.

**(Emphasis added)**

**3.** It is the contention of Mr. Divekar, learned Counsel appearing for the Petitioner that the said order is contrary to the earlier order dated 3<sup>rd</sup> February 2023 passed in same Revision

Application No. 15 of 2022, by which the same contention is raised that the Respondent Nos. 1 and 2 are liable to pay only 50% of the amount mentioned in the Recovery Certificate i.e. Rs.34,48,000/-, however, the said contention has been rejected by the District Deputy Registrar and the Respondent Nos. 1 and 2 were directed to pay 50% of the said amount of Rs.34,48,000/- alongwith due interest. Mr. Divekar submitted that in the same proceeding, order dated 3rd February 2023 passed by District Deputy Registrar directing payment of 50% of principal amount plus interest and therefore there cannot be any contrary order.

**4.** It is the submission of Mr. Parikh that the impugned Recovery Certificate has been served on Respondent Nos. 1 and 2 only in the year 2020 and therefore the Respondent Nos. 1 and 2 are liable to pay interest only from the date of service of the Recovery Certificate. However, after arguing for some time, Mr. Parikh, learned Counsel appearing for Respondent Nos. 1 and 2 states that the Respondent Nos. 1 and 2 shall deposit an amount of Rs.33,17,862.30 with the District Deputy Registrar, which covers the 50% of the interest amount.

**5.** Although it is the contention of Mr. Parikh that the said amount will be deposited with the District Deputy Registrar, however, Sub-Section (2A) of Section 154 of the said Act

mandates that Revision shall not be entertained against the recovery certificate unless the applicant deposits with the concerned society, fifty per cent amount of the total amount of recoverable dues. Thus, the said submissions of Mr. Parikh cannot be accepted.

**6.** At this stage, Mr. Parikh, learned Counsel appearing for the Respondent Nos. 1 and 2 after taking instructions states that the Respondent Nos. 1 and 2 are ready to deposit the balance amount of Rs.33,17,862.30 with the Petitioner-Society, which will be in compliance with the mandate of Sub-Section 2A of Section 154 of the said Act, of deposit of 50% of recoverable dues. Mr. Parikh states that said amount will be deposited with the Society within a period of four weeks from today.

**7.** Mr. Parikh also states that the Respondent Nos. 1 and 2 requires inspection of documents. Mr. Divekar, learned Counsel appearing for the Petitioner states that the Petitioner will offer such inspection if the Respondent Nos. 2 and 3 complies with the statement made before this Court. Mr. Parikh has no objection for the same.

**8.** In view of above discussion, following order is passed:

- (i) The impugned order dated 10th April 2023 passed by the District Deputy Registrar, Co-operative Societies, Mumbai (I) is modified by directing that the Respondent

Nos. 1 and 2 shall deposit the balance amount of Rs.33,17,862.30, which will comply with the mandate of Sub-Section 2A of Section 154 of the said Act of deposit of 50% of recoverable dues with the Petitioner-Society on or before 8th November 2023. However, if the Respondent Nos.1 and 2 succeed in the Revision, which has been filed before the learned District Deputy Registrar, then the said amount will be refunded to the Respondent Nos.1 and 2 within four weeks from the date of order passed by the District Deputy Registrar.

(ii) If the amount is deposited with the Petitioner-Society as above then the Society will give inspection and photocopies of the documents available with the Society, as mentioned in Exhibit 'S' annexed to the Revision Application.

(iii) It is clarified that if the Respondent Nos.1 and 2 fail to deposit with the Society said amount of Rs.33,17,862.30 on or before 8th November 2023, then the Revision Application No. 15 of 2022 filed by the Respondent Nos. 1 and 2 shall be dismissed for non compliance of mandatory provisions of Sub-Section

(2A) of Section 154 of the Maharashtra Co-operative Societies Act, 1960.

**9.** Accordingly, the Writ Petition is allowed in above terms, however, with no order as to costs.

BHALCHANDRA  
GOPAL  
DUSANE

Digitally signed by  
BHALCHANDRA  
GOPAL DUSANE  
Date: 2023.10.28  
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**(MADHAV J. JAMDAR, J.)**