

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

WRIT PETITION NO. 15898 OF 2023

Sandeep Gulab Chinchwade .Petitioner

Vs.

The State of Maharashtra through its Secretary, .Respondents
Ministry of Co-operation & ors.

**WITH
WRIT PETITION NO. 15899 OF 2023**

M/s. Om Sai Travels .Petitioner

Vs.

The State of Maharashtra .Respondents
through its Secretary,
Ministry of Co-operation & Ors.

Ms. Minal Chandnani a/w. Zaheb Merchant i/b. Jaiwant S.
Chandnani Associates, Advocate, for the Petitioners
Ms. V. S. Nimbalkar, AGP, for the Respondent – State
Mr. Harish R. Pawar a/w. Ms. Charusheela S. Garad, Advocate,
for Respondent Nos. 5 & 6

CORAM : MADHAV J. JAMDAR, J.

DATE : 20.12.2023

P. C.

1. Heard Ms. Chandnani, learned Counsel appearing for the Petitioners, Ms. Nimbalkar, learned AGP appearing for the Respondent – State and Mr. Pawar, learned Counsel appearing for Respondent Nos. 5 & 6.

2. By the present Writ Petitions filed under Article 226 of the Constitution of India, the Petitioners are *inter alia* challenging the legality and validity of the Order dated 19th March 2021 (“**impugned Order**”) passed under Section 101 of the *Maharashtra Co-operative Societies Act, 1960* (“**MCS Act**”) in Case No. 1123 of 2019.

3. Mr. Pawar, learned Counsel appearing for Respondent Nos. 5 & 6 states that the Petitioner has filed the Revision only with regards to the Attachment Notice dated 03.08.2021 and not with regards to the Recovery Certificate issued under Section 101 of the MCS Act.

4. In this particular case, Recovery Certificate issued is for more than Rs.6,00,00,000/- (Rupees Six Crores Only). Mr. Pawar, learned Counsel appearing for Respondent Nos. 5 & 6 states that the outstanding dues and recoverable amount is Rs.11,50,00,000/- (Rupees Eleven Crore and Fifty Lakh Only).

5. A learned Single Judge of this Court in the case of *Greater Bombay Co-Operative Bank Ltd. v. Dhillon P. Shah*,

reported in *2003 SCC OnLine Bom 953* has held that the provisions of Sub Section 2A of Section 154 of the MCS Act will apply even to the derivative action taken pursuant to the Recovery Certificate issued under Section 101 of the MCS Act for recovery of the outstanding amount. Sub Section 2A of Section 154 of the MCS Act provides that no Application for Revision shall be entertained against the Recovery Certificate issued by the Registrar under Section 101 of the MCS Act unless the Applicant deposits fifty percent (50%) amount of the total amount of recoverable dues with the concerned Society.

6. Therefore, this is not a case where any interference under Article 227 of the Constitution of India is warranted.

7. Accordingly, the Writ Petition is dismissed in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)