

Arjun

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

WRIT PETITION NO.13093 OF 2023

Darshana R. Nangalia

...Petitioner

V/s.

State of Maharashtra & Ors.

...Respondents

Ms. Minal Chandnani i/b Jaiwant S. Chandnani & Associates,
for the Petitioner.

Smt. V. S. Nimbalkar, AGP, for the Respondent No.1.

Mr. C. M. Jadhav i/b S. C. Legal, for Respondent Nos.3 & 4.

**CORAM : MADHAV J. JAMDAR, J.
DATED : OCTOBER 19, 2023**

P.C.:

1. Heard Ms. Chandnani, learned counsel appearing for the
Petitioner.

2. The present Writ Petition filed under Article 226 and 227 of
the Constitution of India challenging the legality and validity of
the order dated 18th October 2023 passed by the District Deputy
Registrar Co-operative Societies-2, Eastern Suburbs, Mumbai, by
which, the Application bearing Revision Application No.66 of
2022 filed under Section 154 of the Maharashtra Co-operative
Societies Act, 1960 (for short "**the MCS Act**") has been dismissed
as the 50% of the recoverable dues as per the provisions of

Section 154 (2A) of the MCS Act have not been paid. The said Section 154 (2A) reads as under :

“**154.** Revisionary powers of State Government and Registrar.—

(2A) 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.]”

3. It is undisputed that the present Petitioner is the Guarantor and the main Borrower is Respondent No.4. It is also undisputed that the Bank has recovered an amount of Rs.2,19,61,832/- from the main Borrower through the sale of the flat and the balance amount is Rs.1,47,22,543.52/-.

4. At this stage, Ms. Chandnani, learned counsel appearing for the Petitioner after taking instructions from the son of the Petitioner who is present in the court, states that immediately within a period of one week from today, the Petitioner will deposit with the Respondent No.3-Bank, an amount of Rs.30,00,000/- and

the further amount of Rs.30,00,000/- within a month thereafter.

5. In view of the said statement made by learned counsel appearing for the Petitioner, the following order is passed :

- (1) The impugned order dated 18th October 2023, dismissing the Revision Application No.66 of 2022 filed by the Petitioner is quashed and set aside subject to the following :
 - (a) The Petitioner shall deposit an amount of Rs.30,00,000/- in the concerned loan account of the Respondent No.3 on or before 30th October 2023.
 - (b) The Petitioner to deposit further amount of Rs.30,00,000/- in the said loan account of the Respondent No.3 on or before 30th November 2023.
- (2) It is clarified that, if the Petitioner commits any default in making the aforesaid payments, then the impugned order dated 18th October 2023 shall stand revived, and the said Revision Application No.66 of 2022 shall stand dismissed.
- (3) If the Petitioner makes the aforesaid payments on or before the scheduled dates, then the said Revision Application No.66 of 2022 pending before the District Deputy Registrar, Co-operative Societies-2, Eastern Suburbs, Mumbai, shall be taken up for hearing and the same shall be disposed of expeditiously and in any event on or before 29th February 2024.
- (5) This order is being passed in terms of Section 154 (2-A) read with Section (3-A) of the MCS Act.
- (6) It is clarified that this Court has not considered the

merits of the case, and all the contentions on merits are expressly kept open.

- (7) The Writ Petition is disposed of in the above terms, with no order as to costs.
- (8) If the aforesaid amount of Rs.60,00,000/- is deposited with the Respondent No.3-Bank in the time-bound manner as directed hereinabove, then in that event, the attachment of dividend as well as the attachment of the bank account of the Petitioner shall be lifted forthwith.

[MADHAV J. JAMDAR, J.]