

Arjun

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

WRIT PETITION NO.3033 OF 2023

WITH

INTERIM APPLICATION NO.14854 OF 2023

IN

WRIT PETITION NO.3033 OF 2023

WITH

INTERIM APPLICATION NO.14853 OF 2023

IN

WRIT PETITION NO.3033 OF 2023

Smt. Sarala Anupkumar Sony & Anr.

...Petitioners/
Applicants

V/s.

State of Maharashtra & Anr.

...Respondents

Mr. Abhishek Matkar-Amicus Curiae, for the
Petitioners/Applicants.

Mr. Anupkumar Ramanarayan Sony-Petitioner No.2, present
in person.

Mr. D. S. Mhaispurkar i/b V. S. Mhaispurkar, for Respondent
No.2.

Mr. A. B. Chate, Addl. GP a/w Mr. A. P. Vanarase, AGP, for the
Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : NOVEMBER 08, 2023

P.C.:

1. The challenge in the present Writ Petition is to the legality and validity of the order dated 11th July 2022 passed by the Divisional Joint Registrar, Co-operative Societies, Konkan Division, Navi Mumbai in Revision Application No.14 of 2020, by which the said Revision was dismissed and the order dated 6th

June 2019 passed by the Deputy Registrar, Co-operative Societies, Dombivli in Case No.399 of 2019, initiated under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (**“said Act”**), is confirmed. By the said order dated 6th June 2019, the Deputy Registrar, Co-operative Societies, Dombivli has issued recovery certificate under Section 101 of the said Act for an amount of Rs.79,746/- and interest from 1st August 2018.

2. As Petitioner No.1 is a senior citizen and Petitioner No.2, i.e., husband of Petitioner No.1, appears in person and is also a senior citizen, Mr. Abhishek Matkar, learned counsel of this Court was appointed as Amicus Curiae by the order dated 11th September 2023.

3. After arguing the matter for some time, and after taking instructions from the Petitioner No.2, who is personally present in the Court, and Mr. Mhaispurkar, learned counsel appearing for Respondent No.2, after taking instructions from the Secretary of the Respondent No.2-Sadhana Samadhan CHS Ltd., states that no reasons be assigned for passing this order.

4. Both the learned counsels, i.e., learned Amicus Curiae as well as learned counsel appearing for Respondent No.2 state that the dispute under Section 91 of the said Act bearing Dispute No.CCT/61/2020 concerning the recovery is pending before the Co-operative Court at Thane.

5. Accordingly, the following order is passed :

- (1) The concerned learned Judge of Co-operative Court, Thane is requested to decide the Dispute No.CCT/61/2020 filed by Sarala Anupkumar Sony and Anupkumar Ramanarayan Sony against Sadhana Samadhan CHS Ltd. on or before 31st March 2025.
- (2) The contesting parties to co-operate with the learned Judge for disposal of the said dispute in a timely manner.
- (3) The Petitioner No.2-Mr. Anupkumar R. Sony, who is personally present in Court, states that, the Petitioners will pay an amount of Rs.50,000/- in the account of the Respondent-Society on or before 8th December 2023. He further states that an amount of Rs.40,000/- will be deposited in the account of the Society on or before 12th January 2024. The said statement made by the Petitioner No.2 on behalf of the Petitioners, is accepted as an undertaking given to this Court.
- (4) Mr. Anupkumar R. Sony-Petitioner No.2 also states that with effect from 1st January 2024, the Petitioners will pay 50% amount of the maintenance bill in the account of the Society on or before 10th day of each month. First such payment will be made on or before 10th February 2024. The Petitioners to continue to make such payments till the disposal of said Dispute No.CCT/ 61/2020.

- (5) It is clarified that this order is passed without prejudice to the rights and contentions of both the parties.
- (6) In case, the said Dispute bearing Dispute No.CCT/61/2020 is dismissed then, the Petitioners will pay the balance payment as per the recovery certificate dated 6th June 2019 within a period of two months from the date of dismissal of the said Dispute.
- (7) It is clarified that the payments made by the Petitioners in accordance with this order are without prejudice their rights and contentions raised in Dispute No.CCT/61/2020.
- (8) It is clarified that if, the Petitioners commit any default in payment of the aforesaid payments, then the protection granted by this Court shall automatically stand vacated without reference to the Court.
- (9) It is further clarified that, if the Petitioners succeed in the said dispute, then the society will give credit of the amounts deposited by the Petitioners in the account of the Society in subsequent maintenance bills.

6. The Writ Petition is disposed of in the above terms with no order as to costs. In view of the disposal of the Writ Petition, nothing survives in the Interim Applications and the same are also disposed of.

7. It is clarified that this Court has not examined the merits and all the contentions on merits are expressly kept open.

8. This Court places on record the appreciation for the assistance rendered by Mr. Abhishek Matkar, learned Amicus Curiae.

[MADHAV J. JAMDAR, J.]