



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 4525 OF 2024

MAHALAXMI NAGARI SAHAKARI PAT SANSTHA LTD JALNA THROUGH
ITS AUTHORIZED OFFICER

VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

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Mr. K. J. Suryawanshi, Advocate for the Petitioner.

Dr. K. B. Patil Bharaswadkar, AGP for Respondent Nos.1 to 4 – State.

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CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.

DATE : 30th APRIL, 2024.

ORDER :-

. Heard learned Advocate for the petitioner and learned AGP for respondent Nos.1 to 4 – State.

2. It appears that by virtue of mortgage deed dated 11.04.2016, respondent No.5 had mortgaged his land with the petitioner for recovery of the amount. The petitioner appears to have approached the Cooperative Court, Aurangabad. By judgment and order dated 18.12.2021 in CCA No.35 of 2019, the dispute was partly allowed. Accordingly, recovery certificate was issued and the liberty was given to the petitioner to deal with the mortgage property. The appeal preferred by respondent No.5 and others came to be dismissed. Then the matter went to District Collector for execution. Learned Collector, Jalna has passed order dated 20.04.2023 and then 10.05.2023. In the

order dated 10.05.2023, Tahsildar has been directed to take possession after identification of the property.

3. It appears that Tahsildar, Ambad had issued notice to the petitioner on 16.02.2024 to remain present at the spot on 12.03.2024 for executing the said order passed by the District Collector and also it is stated that the powers were then delegated to Naib Tahsildar. However, it appears that prior to that on 07.02.2023, the petitioner had made an application to respondent No.4 for carrying out the measurement. The requisite fee appears to have been deposited. Thereafter, at the time of measurement, a panchanama appears to have been executed on 27.04.2023, wherein it is stated that the petitioner could not point out the possession on that day.

4. The petitioner is now ready to show the possession when the learned Collector had passed the order that the possession of the land be given. After confirming the possession, measurement is necessary.

5. The learned Advocate for the petitioner, on instructions, submits that at present, the petitioner would pray for prayer clause 'C' only and depending upon the measurement, the further reliefs, if need arises, may be taken up.

6. In view of the said statement, the writ petition stands disposed of with direction to respondent No.4 to measure the land Gut No.353, admeasuring 1 H situated at village Ambad, Tq. Ambad, Dist. Jalna on

payment of requisite fee, if any, and as per rules and procedure.

7. Such measurement be made as early as possible, preferably within a period of three months from today.

8. Liberty is granted to the petitioner, if occasion arises to file a fresh writ petition for other prayers.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm