



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

927 WRIT PETITION NO. 14726 OF 2023

SHRI AGRASEN SAHAKARI PATSANSTHA LTD THROUGH ITS
LIQUIDATOR

VERSUS

SULOCHANADEVI PURUSHOTTAM GINGODIYA

...

Advocate for the Petitioner : Senior Counsel Mr. V. D. Hon a/w/
A.D.Sonkawade and Mr. A. V. Hon

Advocate for Respondent : Mr. A. S. Savale

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**WITH
WRIT PETITION NO. 14809 OF 2023**

SULOCHANADEVI PURUSHOTTAMDAS GINGODIYA

VERSUS

SHRI AGRASEN SAHAKARI PATSANSTHA LTD THROUGH ITS
LIQUIDATOR

....

Advocate for the Petitioner : Mr. A. S. Savale
Advocate for Respondent :Senior Counsel Mr. V. D. Hon a/w/
A.D.Sonkawade and Mr. A. V. Hon

...

CORAM : R. M. JOSHI, J.

Dated : June 19, 2024

PER COURT :-

1. Heard. By consent of the parties, heard finally at the stage of admission.
2. Both the sides in Special Darkhast No.43/2014 are aggrieved by order passed below Exhibit 114 dated 01/09/2023 by the Execution Court.
3. Application Exhibit 114 is filed on behalf of the Judgment Debtor

through the liquidator for seeking possession of old computers which were attached for execution of the decree in question. It is the contention of the Judgment Debtor that the data available in the said computers is necessary and the attempts made by the party to retrieve data in the Court premises was unsuccessful. The applicant wishes to take a custody of the said computers and send them to the experts for retrieving the data. The application was opposed by the Decree Holders on the ground that the previous applications filed for the similar purpose were allowed and the data could not be retrieved. Decree Holder has also sought to take exception to this order on the ground that the execution proceedings may not proceed further in view of the order passed by the Court of giving custody of these four computers to Judgment Debtor.

4. Learned Counsel for Decree Holder has drawn attention of this Court to the previous applications and the orders passed by the execution Court as well as this Court. It is his contention that since said issue involved already decided, now it could not be open for the Judgment Debtor to re-agitate the said issue nor it was out jurisdiction of the execution Court to entertain such plea at this

stage.

5. Learned Counsel for Judgment Debtor has grievance about Clause No.3 of the operative part of impugned order which according to him prohibits the Judgment Debtor from preferring any further application in this regard.

6. Perusal of the record indicates that though the issue of retrieving data from the attached four computers was subject matter of the proceeding before the execution Court as well as before this Court, however it is pertinent to note that none of the orders dealt with the issue of handing over the custody of these four computers to Judgment Debtor for retrieving the data with the help of the experts. As far as present order is concerned, the order passed by the learned execution Court merely shows that the attached computers are in non-functional state for long period, and as such, there is substance in the contention of the Judgment Debtor that the custody of the computers are required to be handed over to the experts for retrieving the data.

7. Perusal of the order shows that the Court has also taken care

of the interest of the Decree Holder by directing the Judgment Debtor to deposit surety of Rs.50,000/-. Having regard to the fact that these computers are old, the amount of security deposit as determined by the execution Court is fair and reasonable.

8. This Court finds no substance in the contention of the Counsel for the Decree Holder that in view of the order passed by the execution Court the further execution of the decree is not possible. There is no order of stay to the execution of the decree in question. Merely because four computers are handed over to the custody of Judgment Debtor on the ground that it contends the relevant data, the execution proceedings are not stalled in any manner whatsoever.

9. As far as the grievance made by the Judgment Debtor, with regard to Clause 3 of the operative part of the impugned order is concerned, the tenor of the said clause indicates that the learned Trial Court has clarified that if the data is not available in spite of the same being attempted to be extracted by the experts, no grievance shall be entertained of the Judgment Debtor in that regard. This Court finds that this is not a prohibitory order but a clarificatory one.

10. Thus, there is no substance in both petitions. Resultantly, both petitions stand dismissed.

(R. M. JOSHI, J.)

vj gawade/-.