

VRJ

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

WRIT PETITION NO.722 OF 2024

VAIBHAV
RAMESH
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Date: 2024.01.17
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Sunil Shriram Wagh & Anr.

... Petitioners

V/s.

Special Recovery & Sales Officer

Brihanmumbai Nagari Sahakari

Patsanstha & Ors.

... Respondents

Mr. Vivek Shukla with Ms. Bushra Sayed for the
petitioners.

Ms. V. S. Nimbalkar, AGP for the State/respondent
Nos.3 to 5.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 17, 2024

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
2. Challenge in this writ petition is to the order passed by the Special Recovery Officer in exercise of power under Sub-rule (11) of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961.
3. It appears that the petitioners claiming independent right has raised objection before the Special Recovery Officer under Sub-rule (19) of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961. The petitioner has, therefore, remedy of challenging the order passed by the Special Recovery Officer deciding the

objection by way of either revision under section 154 or by way of suit.

4. The attachment of the property does not enable the society to take possession. The Possession has to be taken under Sub-rule (11)(d-1) of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961. Till the action under Sub-rule (11)(d-1) of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961 is taken, the Special Recovery Officer is not supposed to take possession of the property. Hence, only by attachment no prejudice will be caused to the petitioners. The Special Recovery Officer shall decide the objection within two weeks from today.

5. The writ petition stands disposed of. No costs.

6. Rule stands discharged accordingly.

(AMIT BORKAR, J.)