

VRJ

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

WRIT PETITION NO.2526 OF 2024

VAIBHAV
RAMESH
JADHAV
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Sagar Pralhad Dhamdhare

... Petitioner

V/s.

District Magistrate (Collectorate) Pune
& Ors.

... Respondents

Mr. Mateen Shaikh with Mr. Suresh and Ms. Muskan
for the petitioner.

Mr. Vishwatej Jadhav for respondent No.4.

Mr. Y. D. Patil, AGP for the State/respondent No.8.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 26, 2024

P.C.:

1. The petitioner is challenging order passed by the District Magistrate in exercise of power under Sub-rule 11(d-1)(vi) of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961 permitting Special Recovery Officer to take possession of premises owned by the petitioner. It is not in dispute that certificate under section 101 of the Maharashtra Cooperative Societies Act, 1960 is not challenged before the Revisional Authority under section 154 of the said act. It is not in dispute that certificate under section 101 of the Maharashtra Cooperative Societies Act, 1960 has attained finality. Only challenge pending before the Revisional Authority is

demand notice issued by Special Recovery Officer under Rule 107 of the Maharashtra Cooperative Societies Rules, 1961. Once the contents of 101 certificate has attained finality, it is open for the Special Recovery Officer to execute the certificate by following procedure under section 107 of the Maharashtra Cooperative Societies Rules, 1961. Therefore, the District Magistrate has not committed error of jurisdiction of issuing order of delivery of possession.

2. According to the petitioner, certificate 101 has been obtained by fraud as the amount has already been paid by the petitioner before initiation of proceeding under section 101 of the Maharashtra Cooperative Societies Act, 1960. Such contention needs to be raised before the Revisional Authority under section 101 of the Maharashtra Cooperative Societies Act, 1960. In this proceeding such adjudication cannot be done by the District Magistrate.

3. Hence, there is no merit in the writ petition. The writ petition is dismissed. No costs.

(AMIT BORKAR, J.)