

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

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WRIT PETITION NO.6062 OF 2023

Pramod Vasantryao Ghorpadkar

.. Petitioner

Vs.

Ld. District Collector Alias District Executive
Magistrate of Pune & Ors.

.. Respondents

...

Mr. Manoj A. Patil i/by Mr. S.S. Borulkar, Advocates for the Petitioner.

Mr. Sarang Satish Aradhye a/w Mrs. Shruti S. Kothavade, Ms. Gauri Velankar, Mr. Saarth Chordia, Mr. Shantanu Gurav, Advocate for the Respondent Nos.3 & 4.

Mr. N. C. Walimbe, Addl. GP a/w Ms. P. B. Chavan, AGP for Respondent-State.

...

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE : 2nd APRIL 2024.

PC. :

1. We have heard the learned counsel for the parties for sometime. The petitioner is aggrieved by the steps taken by the Respondent Nos.3 and 4 in terms of Recovery Certificate dated 30th April, 2021 that has been issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960. One of the contentions raised is that the petitioner is neither the borrower nor guarantor for being subjected to such action. On 01/12/2022 notice was issued by the District Magistrate proposing to take over possession of the subject property.

2. While entertaining the writ petition, this Court had protected the petitioner's possession by passing an interim order. The learned counsel for the petitioner submits that within a period of two weeks to today, the petitioner would avail a statutory remedy for challenging the notice dated 01/12/2022 issued by the District Magistrate. He submits that till such time the objection is decided, the petitioner's possession be protected.

3. The learned counsel for the Respondent Nos.3 and 4 fairly submits that the statement has recorded on 3rd May, 2023 would be continued till the objection raised by the petitioner is decided. Accordingly, the following directions are issued:-

- i) Within a period of 15 days from today, the petitioner is free to move an appropriate application invoking the statutory remedy under Rule 107 (19) of the Maharashtra Co-operative Societies Rules, 1961.
- ii) The Recovery Officer shall consider such objection, if raised in accordance with law and take a decision thereof within a period of eight weeks of receiving the same.
- iii) Till such time, the objection is decided and for further period of two weeks, the statement has made on behalf of the

Respondent Nos.3 and 4 shall continue to operate till that date.

iv) This arrangement, however, is without prejudice to the rights and contentions of the parties. All points raised are kept open.

5. The writ petition is disposed of in aforesaid terms.

[JITENDRA JAIN, J]

[A.S. CHANDURKAR, J.]