

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4163 OF 2024

Surendran Manikan Payamal & Anr. ...Petitioners

Versus

The State of Maharashtra & Ors. ...Respondents

Mr. Manoj Jaiswal for the Petitioners.

Mr. Shivaji Lanke a/w. Ms. Priyanka Lanke for Respondent Nos.3 and 4.

CORAM : A. S. CHANDURKAR,
JITENDRA JAIN, J.J.

DATE : 3rd APRIL 2024.

P.C. :-

1. One of the contentions raised on behalf of the Petitioners is the absence of service of notice in the proceedings under Section 101 of the Maharashtra Co-operative Societies Act, 1960. By referring to the provisions of Rule 86F of the Maharashtra Co-operative Societies Rules 1961, it is submitted that in the absence of proper service of notice, the proceedings are vitiated.

2. It is seen that the recovery certificate in question has been issued on 15th January 2021. It appears that Petitioner No.1 preferred a Revision Application under Section 154A of the said Act, which came to be rejected on 6th December 2023 since 50% of the amount indicated in the recovery certificate was not deposited. This order is placed on

record along with reply filed on behalf of Respondent Nos.3 and 4.

3. Only to consider whether the service of notice on the Petitioners is in accordance with Rule 86A of the said Rules, issue notice to the Respondents, returnable on **17th April 2024**.

4. The learned Assistant Government Pleader waives notice for Respondent Nos.1 and 2. Mr. Lanke waives notice for Respondent Nos.3 and 4.

5. It is informed that pursuant to the recovery certificate, possession of the property belonging to the Petitioners are scheduled to be taken today and tomorrow. While it is open for the Recovery Officer to take symbolic possession of the said property, the possession of the Petitioners shall not be disturbed till the returnable date.

6. The learned Assistant Government Pleader to produce the record of recovery proceedings decided under Section 101 of the said Act.

7. Similarly, the Respondent Nos.3 and 4 to file Additional Affidavit indicating steps taken to sell the mortgaged property of the principal borrower.

8. Parties to act on the authenticated copy of this order.

[JITENDRA JAIN, J.]

[A. S. CHANDURKAR, J.]