

Shabnoor

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

WRIT PETITION NO.4923 OF 2024

Alhad Pandurang Hamine ... Petitioner

V/s.

The Office of the Recovery Officer & Anr ... Respondents

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Mr. Kersi Dastoor a/w Aziz Shaikh a/w Ms. Akshaya A.
Salvi a/w Mr. Milind D. Dhande, for Petitioner.

Mrs. V. S. Nimbalkar, AGP for State/Respondent No.1.

Mr. Charles D'Souza a/w Mr. Nikhil Rajani i/by M/s. V.
Deshpande & Company, for Respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : MAY 6, 2024

PC.:

1. Prima facie, it appears that the Supreme Court in the case of **Ludovico Sagrado Goveia Vs. Cirila Rosa Maria Pinto & Ors.**, reported in (2016) 9 SCC 615 in paragraph 13 has observed as under:

“13. Thus it can be seen that Section 84 (4) and (5) of the new Act provide for a different scheme. Equally, Section 94 which provides for execution of certain decisions and orders made under the 2002 Act, mentions various Sections, but Section 84 is conspicuous by its absence. This is obviously for the reason that the entire proceedings have now to be conducted under the 1996 Act, including execution of the

arbitration Award made under the said Act. The question before the High Court was whether proceedings initiated under the old Act could continue under the said Act.”

2. Subsequently, the Single Judge of this Court, in the case of **Rajendra Baban Deshmukh and Anr. Vs. Recovery Officer, Abhyudaya Co-op. Bank Ltd. and Ors.**, reported in 2018 SCC OnLine Bom 1211, has taken a view that the Recovery Officer has power to execute an Award under Section 84 of the Multi-State Co-operative Societies Act, 2002.

3. Prima facie, it appears that the judgment of the Single Judge of this Court is *per incuriam* of the judgment of the Supreme Court in the case of **Ludovico Sagrado Goveia** (Supra). Hence, the petitioner has made out a case for grant of ad-interim relief. Hence, till the next date, there shall be ad-interim relief in terms of prayer clause (b).

4. To be listed on **18 June 2024**.

(AMIT BORKAR, J.)