

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 6269 OF 2024**

Shri Bharat Gurbasu Mali

.. Petitioner

**Versus**

Samata Gramin Bigarsheti Sahkari Patsanstha  
Maryadit and ors.

.. Respondents

- .....
- Mr. Anant Vadgaonkar, for Petitioner.
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : JULY 16, 2024**

**P. C.:**

**1.** The writ Petitioner is a guarantor in a case where the principal borrower has obtained and availed the loan from the Bank. A decree has been passed against three Judgment Debtors, out of which, the Judgment Debtor No. 3 is the writ Petitioner before me. The Judgment Debtor No.1 is the principal borrower and Judgment Debtor No. 2 is the another guarantor. Writ Petitioner who is the Judgment Debtor No.3 would inform the Court that an application dated 22/08/2022 is made in the Regular Darkhast proceedings which is pending before the Executing Court. He would submit that Judgment Debtor No.3 is a teacher by profession working in a School i.e. 'New English School' at Nimboni, Taluka-Mangalvedha, District- Solapur. That Application is

appended at Exhibit 'C' page no. 19. It is stated in the Application that Judgment Debtor No. 3 is drawing a salary of Rs.31,235/- as teacher while working in the School and an amount of Rs. 10,000/- should be attached and withdrawn every month from his salary towards the decretal amount. It is seen that the Award which has been passed against the three Judgment Debtors is for a total amount of Rs.5,75,000/- approximately. The Judgment Debtor No.1 who is the principal borrower from the credit Society had borrowed the amount for agricultural purpose. He is an agriculturist who had availed the loan from the Credit Society for agricultural purpose. The Judgment Debtor No.2 is also an agriculturist who is a guarantor. It is the grievance of the Writ Petitioner-Judgment Debtor No.3 before me that the Credit Society has not proceeded against the immovable properties of the Judgment Debtor Nos. 1 and 2 who both are having agricultural properties. If that is the position and if the Judgment Debtor No.1 is the principal borrower then there is no reason as to why the Judgment Debtor No.3 should be put in jeopardy by seeking to attach 1/3 of his monthly salary. *Prima facie*, argument made by Mr. Vadgaonkar for stay of the impugned order is accepted and the impugned order is stayed.

**2.** It is seen that the impugned order is passed on an Application moved by the Writ Petitioner- Judgment Debtor No. 3 for not invoking

action against the attachment of salary of the Judgment Debtor No.3 without proceeding against the Judgment Debtor Nos. 1 and 2.

**3.** In view of the above, I am inclined to stay the impugned order dated 21/06/2023. It is clarified that no coercive steps shall be taken against the writ Petitioner- Judgment Debtor No 3.

**4.** Issue notice to the Respondents made returnable on 13/08/2024. Humdast permitted.

**5.** The Respondents shall take cognizance of this order. Judgment Debtor No.1 shall place on Affidavit the details of his agricultural properties to enable this Court to consider the same.

**6.** In addition to Court's notice, the Petitioner is directed to serve copy of the Petition along with the copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

**7.** After receiving the notice, Respondents shall file affidavit-in-reply within a period of 2 week from today, if so desired with an advance copy to the Advocate for Petitioners. Rejoinder if any shall be filed on or before the next date.

**8.** Respondents are directed to remain present either themselves or through their Advocate on the next adjourned date. It is made clear

that if Respondents remain absent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of the Respondents.

**9.** Stand over to 13/08/2024.

Urmila Ingale

[ MILIND N. JADHAV, J. ]

AJAY  
TRAMBAK  
UGALMUGALE  
Digitally signed by  
AJAY TRAMBAK  
UGALMUGALE  
Date: 2024.07.17  
11:51:19 +0530