

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

WRIT PETITION NO.8800 OF 2024

Union Bank of India, Mumbai .. Petitioner
Vs.
State of Maharashtra,
Through Co-operation and Textile Department & Ors. .. Respondents

Ms. Aarti Nimbalkar with Mr. Kumar Abhishek, Advocates for the Petitioner.

Smt. D.S. Deshmukh, Assistant Government Pleader for the Respondent-State of Maharashtra.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 1ST JULY, 2024.

PC. :

1. It is submitted by the learned counsel for the petitioner that pursuant to advancement of loan in favour of respondent no.5-Company, the respondent no.9 stood as guarantor. The registration of the petitioner's charge with the Central Registry of Securitization Asset Reconstruction and Security Interest of India – CERSAI is dated 20th February 2014. According to the petitioner, since the respondent no.9 failed to pay dues of the respondent no.4-Society, it initiated proceedings under Rule 107 of the Maharashtra Co-operative Societies Rules, 1961. An order dated 18th January 2024 has been passed appointing a Recovery Officer to take possession of the mortgaged property. It is submitted that since the petitioner's charge is prior in time, the order passed under Rule 107 of the Rules of 1961 cannot be executed.

2. Issue notice to the respondents, returnable on 22nd July 2024. Learned Assistant Government Pleader waives notice for respondent nos.1 and 3. Other respondents be served through all permissible modes.

3. Considering the fact that the CERSAI registration of the petitioner is much prior, there shall be ad-interim relief in terms of prayer clause (d) of the Petition, which reads as under :

“(d). For an interim order and injunction of this Hon’ble Court pending hearing and final disposal of this Petition :

- (i). This Hon’ble Court be pleased to stay the implementation and/or the effect of the impugned orders dated 18.01.2024 passed by the Ld. Metropolitan Magistrate, Esplanade, Mumbai;
- (ii). Forthwith restrain the respondent nos.3 and 4 from proceeding in any manner from taking physical possession of the said Gala; and
- (iii). Forthwith restrain the respondent nos.3 and 4 from dealing in any manner with regard to the said Gala.”

4. Parties to act on authenticated copy of this order.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]