

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

WRIT PETITION NO.14410 OF 2024

Varsha Avinash Raut .. Petitioner
Vs.
State of Maharashtra,
Through the Commissioner (Co-operation), Pune & Ors... Respondents

Mr. Narendra Sharma (through V.C.) with Mr. Rachit Khamparia and Mr. Akshay H. Mishra, Advocates for the Petitioner.

Mrs. M.S. Srivastava, Assistant Government Pleader for Respondent Nos.1, 3 and 4.

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

DATE : 17TH OCTOBER 2024.

[*THROUGH HYBRID HEARING*]

PC. :

1. The learned counsel for the petitioner submits that copy of the writ petition has been served on the respondent no.2. He submits that affidavit-of-service would be filed by 19th October 2024. Statement is accepted.

2. According to the petitioner, without being duly noticed, the proceedings under Section 101 of the Maharashtra Co-operative Societies Act, 1960 came to be decided on 12th July 2019 and a Recovery Certificate has now been issued. To execute that Recovery Certificate, the respondent no.2-Society has invoked proceedings under Rule 107(11) of the Maharashtra Co-operative Societies Rules, 1961. The learned counsel for the petitioner submits that the direction to take over possession under Rule 107(11) has been issued by the Tahsildar and Executive Magistrate while such direction is required to be issued by the District Magistrate.

3. The remedy of preferring a Revision Application under Section 154(2A) of the said Act of 1960 is available to the petitioner. However, since the Circle Officer by notice dated 27th September 2024 has proposed to take over possession of the subject property on 18th October 2024, the petitioner has approached this Court.
4. Issue notice to the respondents, returnable on 28th November 2024. The learned Assistant Government Pleader waives notice for respondent nos.1, 3 and 4.
5. Subject to the petitioner depositing 50% of the amount as mentioned in the Recovery Certificate dated 12th July 2019 with the respondent no.2 within a period of four weeks from today, the steps for taking possession in terms of the notice dated 27th September 2024 are deferred for a period of four weeks. Needless to state that if such deposit is not made, the interim protection would stand vacated.
6. Parties to act on authenticated copy of this order.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]