



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14715 OF 2024.

Durgesh Chandrabali Singh

...Petitioner.

Versus

The State Of Maharashtra And Ors

...Respondents.

Mr. Ismail Nasikwala for the Petitioner.

Mr. J. P. Patil, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : October 22, 2024.

P. C. :

1. Heard.
2. By this petition, the challenge is to the recovery certificate dated 22nd August 2014 and notices dated 13th August 2024 and 23rd September 2024 issued by the Respondent No.4 under Section 156 of the Maharashtra Co-operative Societies Act, 1960 [for short "MCS Act"] read with Rule 107 of the Maharashtra Co-operative Societies Rules, 1961 [for short "MCS Rules"]. The contention of learned counsel appearing for the Petitioner is that though an application for loan was made by the Petitioner and the approval was granted, there was no disbursement of loan by the Respondent No. 3-society. It is further his contention that no notice was given of the order of 2014 and on 18th

October 2024, the petition had to be moved urgently in view of the fact that a notice was received from the Recovery Officer under Rule 107(5) of the MCS Rules and Rule 107(10) of the MCS Rules for attachment of property.

3. Perusal of the petition would indicate that on 13th August 2024 a notice was issued by Recovery Officer for taking possession of the subject flat. In the said notice it is stated that the Petitioner has been regularly given notices for repayment of outstanding loan of Rs.1,46,58,068/-, however, the same has not been repaid. Despite notice of 13th August 2024, there is no action taken by the Petitioner by immediately filing a petition or by taking appropriate steps under the provisions of MCS Act or Rules. As such, this Court is not inclined at this stage to grant any *ex parte* ad-interim relief.

4. Issue notice to the Respondents, returnable on **19th November 2024**. *Hamdust* is permitted.

5. The Petitioner is at liberty to file application before the Recovery officer under the provisions of Rule 107 of MCS Rules, if so permissible.

[Sharmila U. Deshmukh, J.]