



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 18633 OF 2024

Hitesh Tulsidas Thakkar and Anr. ... Petitioners.
Versus
The Cosmos Co-Operative Bank Limited and Ors. ... Respondents.

AND
WRIT PETITION NO. 18644 OF 2024

Ganpat Tukaram Digaskar (since deceased)
Thr His Sole Legal Heir Sadanand Ganpat Digaskar ... Petitioner.
Versus
The Cosmos Co-Operative Bank Limited and Ors. ... Respondents.

AND
WRIT PETITION NO. 18839 OF 2024

Mohan Dattu Digaskar ... Petitioner.
Versus
The Cosmos Co-Operative Bank Limited and Ors. ... Respondents.

AND
WRIT PETITION NO. 18845 OF 2024

Avinash Baburao Digaskar ... Petitioner.
Versus
The Cosmos Co-Operative Bank Limited and Ors. ... Respondents.

Mr. Nitin Sejpai i/by Ms. Akshata Desai, for Petitioner in WP/18863/2024
and WP/18839/2024.
Mr.Nitin Sejpai i/by Mr. Krunal Thakkar for Petitioner in WP/18644 of
2024.
Mr.Nitin Sejpai i/by Mr. Siddharath Gharat for Petitioner in
WP/18845/2024.
Mr. Vishal C. Ghosalkar a/w. Mohd. Moin Khan, Mr. Bharat Kadam for
Respondent No.1.

Coram : Sharmila U. Deshmukh, J.

Date : December 18, 2024

P. C.:

1. Learned counsel appearing for the Respondent-Bank submits that the Application No.1915 of 2024, which is the subject matter of Writ Petition No.18644 of 2024, Application No.1916 of 2024 which the subject matter of Writ Petition Nos.18845 of 2024, Writ Petition No.18633 of 2024 and Writ Petition No.18839 of 2024, will be withdrawn and fresh Application under Rule 107 will be filed before the Chief Judicial Magistrate.

2. In view of the submission of Mr. Ghosalkar, learned counsel for Respondent-Bank, the impugned orders are quashed and set aside. The Respondent-Bank is at liberty to file a fresh Application before the Chief Judicial Magistrate. Mr. Ghosalkar, would submit that the provisions do not permit the impleadment of the third parties or the borrowers in the Application filed under Section 107 (11) of the MCS Rules, 1971. As the Petitioners herein claim certain rights in the property in respect of which the attachment and the possession order are sought, the Respondent-Bank to give notice of filing of the Application and the date of first hearing before the Chief Judicial Magistrate. Upon such notice being received, it is open for the Petitioners herein to take appropriate steps in accordance with law.

- 3.** Petitions are disposed of as withdrawn.
- 4.** Needless to clarify that this Court has not gone into the merits of the matters and as such, all rights and contentions of all parties are expressly kept open.
- 5.** Considering the recovery of the dues is by the Cooperative Bank, a request is made for expeditious disposal.

[Sharmila U. Deshmukh, J.]