

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6269 OF 2024**

Bharat Gurbasu MaliPetitioner

Vs.

Samata Gramin Bigarsheti Sahkari
Patsanstha Maryadit & Ors.Respondents

Mr. Anant Vadgaonkar, for the Petitioner.

Mr. Suhas S. Inamdar, for the Respondents.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 21st NOVEMBER 2025

PC.:-

1. The present Writ Petition takes exception to order dated 21st June 2023 passed below Exhibit 23 by learned Civil Judge, Junior Division, Mangalvedha in Regular Darkhast No.3 of 2020, whereby application filed by Petitioner has been rejected.

2. The Respondent No.1 is a Financial Institution. The Respondent No.2 has borrowed loan of Rs.1,75,000/-. The Petitioner was guarantor for loan transaction. Since, Respondent No.2 defaulted in payment of loan, Respondent No.1 approached Co-operative Court. Accordingly, decree for recovery of amount is passed. In pursuance to decree, Regular Darkhast No.3 of 2020 has

been filed before Civil Judge, Junior Division at Mangalvedha. Respondent No.2 filed an application for attachment of salary of Petitioner. The learned Executing Court allowed application for attachment.

3. The Petitioner, who is guarantor to loan and facing execution of decree, filed an application and sought direction against Respondent No.1 to first attach properties of borrower and then proceed to adopt other modes of recovery, including attachment of salary. The learned Executing Court vide impugned order rejected Petitioner's prayer observing that it is choice of Decree Holder to execute decree against any defendant or Judgment Debtor.

4. Mr. Vadgaonkar, learned Advocate appearing for Petitioner would submit that Respondent No.4 has sufficient property and amount of dues can be recovered by auction of said property. However, the aforesaid contention cannot be accepted in view of settled legal position that it is choice of creditor to recover amount either from realizing the securities given by borrower or from guarantor. In present case, decree has attained finality. The Petitioner is adjudicated as guarantor. The bank has made an

application for attachment of his salary for recovery of loan. The Petitioner cannot seek direction against bank to adopt a particular mode of recovery instead recovering amount from his salary.

5. In that view of the matter, there is no substance in Writ Petition. The Writ Petition stands rejected.

(S. G. CHAPALGAONKAR, J.)

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