

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

WRIT PETITION NO.12558 OF 2024

M/s. Unique Enterprises & Ors.
V/S

....Petitioners

Umasa Chavan Nagari Sahakari
Patsanstha Maryadit Solapur & Anr.

....Respondents

**WITH
WRIT PETITION NO.10057 OF 2024**

Solapur Janata Sahakari Bank Ltd.
V/S

....Petitioner

Umasa Chavan Nagari Sahakari
Patsanstha Maryadit Solapur & Ors.

....Respondents

Mr. D.S. Mhaispurkar *for the Petitioners in WP 12558 of 2024.*

Mr. Murlidhar S. Khadilkar with Mr. Chinmay Page *for the
Petitioner in WP 10057 of 2024.*

Mr. Ketan Joshi, 'B' Panel *for Respondent Nos.12, 13 and
15/State in WP 10057 of 2024.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 06 MAY 2025.**

P.C.:

1. These Petitions challenge order dated 24 August 2023 passed by the learned Judge, Co-operative Court, Solapur, by which an order of attachment before award is made. The order dated 24 August 2023 was subjected to Appeal by Petitioners in

Writ Petition No.12558 of 2024 and the Appeal has been dismissed by the Co-operative Appellate Court by order dated 13 October 2023 which is also subject matter of challenge in Writ Petition No.12558 of 2024. Writ Petition No.10057 of 2024 is filed by the Solapur Janata Co-operative Bank Limited (**Solapur Bank**) who is apparently not party to the Dispute Application pending before the Co-operative Court. Solapur Bank is however aggrieved by the order dated 24 August 2023 as it believes that the Co-operative Court could not have entertained Application for attachment before award in respect of the property described in Schedule A to G, which are already mortgaged in favour of Solapur Bank.

2. However perusal of the order dated 24 August 2023 would indicate that the attachment before award is subject to the condition that if securitisation action initiated by Solapur Bank fails for any reason or is concluded, and if any property still remained to be sold, such property alone would remain attached by virtue of order dated 24 August 2023. The attachment directed by the Co-operative Court is thus subject to the right of Solapur Bank to sell the same for recovery of amounts due to it. It is only in the event of any of the properties not being sold after satisfaction of claim of Solapur Bank that the attachment would remain valid only *qua* that property during pendency of the Dispute Application. In that sense, there is no fetter on Solapur Bank from dealing with the attached properties for recovery of amounts due to it. The order dated 24 August 2023 thus does not

come in the way of Solapur Bank in dealing with the mortgaged properties for recovery of its dues. As a matter of fact it appears that during pendency of the present Petitions Solapur Bank has already dealt with and has sold some of the mortgaged properties. This would again indicate absence of any fetter on the Solapur Bank from selling the mortgaged assets irrespective of passing of order dated 24 August 2023.

3. So far as Writ Petition No.12588 of 2024 is concerned, Petitioner No.1 has apparently not repaid the amounts due under credit facility availed from Respondent No.1-Umasa Chavan Nagari Sahakari Patsanstha Maryadit (**Umasa Credit Society**). Though properties described in Schedule A to G are not mortgaged assets of Respondent No.1-Umasa Credit Society, the order of attachment is passed with a view to ensure that the Petitioners do not deal with the said properties so as to frustrate the claim of Umasa Credit Society. Till date, Petitioners have apparently not repaid even part of the amounts due from them to Umasa Credit Society. Therefore this Court would not be inclined to exercise jurisdiction under Article 227 of the Constitution of India with a view to aid the Petitioners, who have not bothered to repay the amounts due to Respondent No.1-Umasa Credit Society.

4. Writ Petition No.12558 of 2024 is accordingly **dismissed**. Writ Petition No.10057 of 2024 is **disposed of** with a

clarification that the order dated 24 August 2023 passed by learned Judge, Co-operative Court, Solapur shall not act as a fetter on Solapur Bank in dealing with the mortgaged properties for recovery of amounts due to it. If any mutation entries are made pursuant to the impugned order dated 24 August 2023, the same would also not act as fetter on Solapur Bank from dealing with the mortgaged assets. However in the event any of the attached properties remain in the ownership of borrowers or guarantors after realization of amounts due to Solapur Bank, the impugned order of attachment shall continue to operate only *qua* such properties.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

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by SUDARSHAN
RAJALINGAM
KATKAM
Date:
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