

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16709 OF 2024

Rajkumari Sharma ...Petitioner
Versus
The State of Maharashtra
Through Collector of Thane And Anr. ...Respondents

WITH
WRIT PETITION NO.16711 OF 2024

Yash Textiles Machines Pvt. Ltd.
Through Director Navin Yashpal Sharma ...Petitioner
Versus
The State of Maharashtra
Through Collector of Thane And Anr. ...Respondents

Ms. Shweta Rathod a/w Ms. Tahira Siddique i/b Elixir Legal Services for the
Petitioner in both petitions.
Mr. Kedar Dighe, Addl. G.P. a/w Ms. S.A. Prabhune, A.G.P. for Respondent
No.1-State in Writ petition No.16709 of 2024.
Ms. Savita Prabhune, A.G.P. for Respondent No.1-State in Writ Petition
No.16711 of 2024.
Mr. Amit Dattatraya Puri, Tahsildar, Ambarnath, Dist. Thane, on behalf of
Respondent No.2, present.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 7 FEBRUARY 2025

P.C.:

1. We heard the learned counsel for the parties on earlier occasion.
2. Tahsildar Mr. Amit Dattatraya Puri has filed an Affidavit dated 6 February 2025, setting out the steps which are taken to execute the recovery warrant. However, what we notice is that the recovery is not to

the extent and of the nature as would be required to be undertaken as per the recovery warrant dated 23 October 2020.

3. Despite the fact that the recovery warrant dated 23 October 2020 was received by the Tahsildar, as also served by the petitioner on his office on 8 September 2021, for long period upto January 2025, no action was taken. Hence, the present petition was filed.

4. Although the new incumbent Mr. Amit Dattatraya Puri (the present Tahsildar), who is present in the Court has taken immediate steps in the light of the present proceedings. He has expressed his regret for the delay on timely action being not taken on the recovery warrant. In our opinion, a mere regret would not satisfy the interest of justice, not only *qua* the petitioner but for similarly situated aggrieved persons, who are awaiting execution of warrants against the persons like Respondent No.3.

5. We are at pains to know from learned Government Pleader that as no action was taken on these warrants which was to be taken by the Collector and District Magistrate, Thane, certainly a prejudice is caused to the petitioner. The information as revealed shows that the bank accounts of Respondent No.3 are not operational or there are hardly any funds in such accounts. Although the Collector/Tahsildar has stated before us that he will make further inquiries from the Income Tax Department, he states that in regard to other accounts he has also addressed letters to the Income Tax Department as also the Reserve Bank of India.

6. Be that as it may, it is fairly stated before us that the Tahsildar has not attached all the properties and most importantly the property of project in question, which itself was required to be attached and auctioned as per the directions in para-7 of the details of the attachable assets as annexed to the warrant issued by the MahaRERA, Mumbai. Paras 6 and 7 of the same are imperative to be noted, which read thus :-

6	Full details of the property of defualter against which the process may be executed	Flat No. 202, 2nd floor, Q - Building, PRASADAM PHASE III" is known as Project, is situated on plot bearing Survey No. 67,69/1, 70/1, 71, 72, 73, 74/1, 74/8, 77/1 77/2, 78/3 MIDC Road, Village Chikhaloli, Ambernath, Thane - 421501. a) Housing project which is duly registered under the RERA Act bearing Registration No. P51700005877. b) Other apartments which are still not booked and not mortgaged to any Financial Institutions/Bank Note: Land on which the project is being implemented, apartments that are already booked with other allottees and apartments that are mortgaged to Financial Institutions/Banks should not be attached so that the project can be completed.
7	Immovable property: a) Name of the building house/building b) Room No. c) Name of the village/town d) Road name/gally name e) Sr.No./II No. of the property f) Area of the property in square meters g) CTS No. of the property area of the property	c) If by attaching the property mentioned in 6 above still arrears remain, then the properties/offices or any other movable or immovable properties of the defaulters be attached and auctioned. In order to ascertain unsold inventory and other properties of defaulters, you may adopt the procedure similar to which Jaid down under Order 21 Rule 41 CPC namely to examine the judgement debtor to disclose his property and produce its property card, failing which he can be sent to jail for 3 months.

7. Similar is the position in respect of the warrants issued in the companion matter.

8. From what has been gathered during the course of the proceedings, we are also disturbed with the nature of the inaction at the Office of the Collector and District Magistrate in dealing with recovery warrants and more particularly against the developers.

9. The present case is a classic case, which would certainly require us, as a Constitutional Court to know from the District Collector, Thane, as to what is the procedure and machinery in operation to deal with execution of recovery warrants and whether the department is sensitive to these matters for urgent actions to be taken. This for the reason that any delay in execution of the recovery warrants has enabled the persons against whom recovery is ordered to extinguish and/or siphon off funds and properties, so that the recovery warrants are rendered mere paper warrants. This cannot be countenanced considering that the Authorities are required to act with utmost expediency and in accordance with law, so that the rule of law prevails, in executing such orders which are passed by the Courts and Authorities.

10. We accordingly direct the Collector, Thane to place on record a detailed Affidavit explaining as to why the warrants dated 23 October 2020 were delayed in regard to their execution and the duties and responsibilities of all the concerned officers who are supposed to deal with these warrants from the date the same were received in the Office of the Collector and District Magistrate.

11. We also direct the Collector, Thane to place on record the machinery which is operational and/or procedure to deal with such warrants. Further a date-wise statement as to how the present warrants were dealt and inaction in this regard should be attributed to which of the officers in the Collector's department, working at the relevant time be specified.

12. The Court be also informed in such Affidavit as to how many warrants are pending execution and what steps are being taken by the Collector, Thane, to execute these warrants.

13. Let a comprehensive Affidavit be filed without any delay whatsoever and placed on record by Collector, Thane, and no other officer.

14. Accordingly, stand over to **14 February 2025**, to be listed High on Board.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]