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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4374 OF 2025
WITH
WRIT PETITION NO.4388 OF 2025

Special Recovery Officer, Lokseva
Sahakari Bank Limited & Anr. … Petitioners

V/s.

Prafulla Subhashchandra Kothari & Ors. … Respondents

ATUL GANESH KULKARNI

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Date: 2025.12.04 18:12:04 +0530

Mr. Sarang S. Aradhye with Ms. Gauri Velankar for the petitioners.

Mr. Joel D'Souza with Mr. Suresh M. Kamble for respondent No.1.

Mr. O.A. Chandurkar, Additional G.P. with Mr. Hamid D. Mulla, AGP for respondent No.2-State

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 4, 2025

P.C.:

1. **Rule**. Rule is made returnable forthwith.

2. These petitions question the legality of a communication issued by the Special Recovery Officer. The communication was sent in continuation of an attachment made under sub rule 11 of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961. The nature of the communication and the authority under which it was issued must be examined with care. The Court must see whether such communication has the character of an order amenable to revisional jurisdiction. The inquiry is limited yet important. It concerns the scope of powers vested in the Recovery Officer under the Rules and the circumstances in which supervisory intervention is justified.

3. The contesting respondent alleges that the very disbursement of the loan is in dispute. Civil and statutory proceedings questioning the attachment are pending. A stay against the attachment and execution operates. In this background, the revisional authority has interfered and has set aside what it treated as an order of the Special Recovery Officer. The submissions of the respondent highlight the pendency of proceedings but do not resolve the fundamental issue. The Court must determine whether the communication in question amounts to an order within the meaning of the Act. Unless the document bears the attributes of an order, revisional jurisdiction does not arise.

4. The record shows that the Special Recovery Officer addressed a communication to the Revenue Officer under Section 149 of the Maharashtra Land Revenue Code, 1966. He requested an entry of encumbrance in the revenue record to reflect the attachment made by him under sub rule 11 of Rule 107. He did not adjudicate any dispute. He did not determine any rights. He merely brought the fact of attachment to the notice of the Revenue Officer for necessary steps under the MLRC. Such a communication does not carry the colour of a quasi judicial order. It lacks the essential features of a decision or an order contemplated by Section 154 of the Maharashtra Cooperative Societies Act, 1960. It is only an intimation. At the highest, it can be described as an application placed before the Revenue Authorities. The Revenue Authorities must then consider the request, examine the rights asserted, and decide whether any entry should be made. The discretion lies with the authorities functioning under the MLRC. The communication does not bind them. It only sets the process in motion.

5. Once it is clear that the communication is not an order within the meaning of the Act, the revision before the revisional authority could not stand. The revisional authority assumed jurisdiction where none existed. It proceeded on an incorrect premise that the communication of the Special Recovery Officer was an order capable of being set aside. Such approach defeats the scheme of the Act. The revision was not maintainable at its inception. The revisional authority therefore acted without jurisdiction in interfering with the communication. The impugned order cannot be sustained.

6. Accordingly, rule is made absolute in terms of prayer clause (b) in both the writ petitions.

7. No costs.

(AMIT BORKAR, J.)