

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7285 OF 2025

Godamrut Urban Co-op Credit ... Petitioner
Society Ltd Nashik through Its
Chairman

V/s.

The District Deputy Registrar Co-op ... Respondents
Societies Nashik and Ors.

Mr. Anilkumar Patil with Zeel Jain, Ashishraj Mane I.by Digvijay Patil,
for the petitioner.

Mr. Narayan Rokale with Abhang Suryawanshi, Swapnil Kalokhe,
Ramchandra Wagh and Tribhuvan Sharma, for the respondents.

Ms. T.J. Kapre, AGP, for the respondent Nos. 1, 2 and 8.

CORAM : N.J. JAMADAR, J.

DATE : 1st AUGUST 2025

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PC:

1. Heard the learned counsel for the petitioner.
2. The challenge in this petition is to an order passed by the Divisional Joint Registrar, Co-operative Societies in Revision Application No.R-74 of 2022 dated 2nd January 2024, whereby the revision application was allowed by setting aside an order dated 23rd November 2022, passed by the Deputy Registrar, Nashik fixing the upset price for the sale of the mortgaged property.
3. The said order dated 23rd November 2022 was passed by the

Deputy Registrar, as there was no stay to the recovery certificate granted by the Deputy Registrar under Section 101 of the Maharashtra Co-operative Societies Act, 1960, by an order dated 29th December 2020.

4. The Revisional Authority was of the view that the Deputy Registrar had not considered the implications of the private complaint filed by the borrower i.e. Miscellaneous Criminal Application No. 2049 of 2022, before the Judicial Magistrate First Class, at Nashik.

5. The order passed by the Deputy Registrar was essentially consequential to, and for the execution and enforcement of, the certificate granted by the Deputy Registrar under Section 101 of the Maharashtra Co-operative Societies Act, 1960, on 29th December 2020.

6. The learned counsel for the respondent no. 3, the original borrower, on instructions, submits that the respondent no. 3 has not challenged the said order granting recovery certificate by preferring a revision under section 154 of the Act, 1960. The proper remedy for the persons aggrieved by the grant of the recovery certificate was to assail the said order under Section 154 of the Act, 1960. The Divisional Joint Registrar, thus, could not have set aside the order fixing the upset price when the order granting a recovery certificate still holds the field.

7. When this Court expressed the aforesaid view, the learned counsel for the respondent no. 3 seeks time to assail the order passed by the Deputy Registrar granting recovery certificate under Section 101 of the Act, 1960, in an appropriate proceeding.

8. In view of the aforesaid consideration and submissions on behalf

of the respondent no. 3, the original borrower, the petition deserves to be allowed. At the same time, a reasonable time is required to be granted to the respondent no. 3 to assail the order granting the certificate under Section 101 of the Act, 1960, in an appropriate proceeding.

9. Hence, the following order:

ORDER

- i) The petition stands allowed.
- ii) The impugned order stands quashed and set aside.
- iii) However, to facilitate respondent no. 3 to file an appropriate proceeding to assail the order granting the recovery certificate under Section 101 of the Act, 1960, the execution and operation of the order passed by the Deputy Registrar on 23rd November 2022 shall remain stayed for a period of six weeks.
- iv) In the event the question of limitation arises, the revisional authority shall have due regard to the proceedings which were pending in the intervening period.

(N.J. JAMADAR, J)