

Shabnoor

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

WRIT PETITION NO.7353 OF 2025

Sandhya Mukund Ingawale

... Petitioner

V/s.

The Special Recovery Officer,
The Baramati Sahakari Bank Ltd.,
& Ors.

... Respondents

Mr. Sushant S. Prabhune, for the petitioner.

Mr. Pratap Patil, for respondent Nos.1 & 2.

Mrs. V. S. Nimbalkar, AGP for the State – respondent
Nos. 3, 4 & 8.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 9, 2025

P.C.:

1. The petitioner has filed this writ petition challenging the order passed by the District Magistrate in exercise of powers under Rule 107(D-1)(vi) of the Maharashtra Cooperative Societies Rules, 1961. The grievance of the petitioner is that the said order has been passed without authority of law and without following the procedure prescribed under the Rules.

2. This Court has already examined the scope of power exercised by the District Magistrate under the said provision in the case of *Amit Jori vs. State of Maharashtra & Ors.*, Writ Petition No. 1331 of 2025. It has been held that the power conferred upon the Magistrate under Rule 107(D-1)(vi) is only executionary in nature.

It is not a quasi-judicial determination of rights. The Magistrate acts as an executing authority to give effect to a recovery certificate issued under Section 101 or Section 107 of the Maharashtra Cooperative Societies Act, 1960. Therefore, the scope of judicial review under Article 226 of the Constitution against such executionary orders is very limited.

3. The petitioner contends that no certificate under Section 107 of the Act has been issued against him and therefore, the order of the Magistrate directing recovery is without foundation. The record, however, does not disclose that the petitioner had availed of the remedy provided under the Rules before approaching this Court. Rule 19 and Rule 107 of the Maharashtra Cooperative Societies Rules, 1961 provide a complete mechanism to redress grievances relating to recovery proceedings. A person claiming that he is not the defaulter, or that no certificate has been issued against him, can raise such objections before the Special Recovery Officer, who is empowered to examine and decide those issues.

4. The settled legal position is that when a statute provides a specific remedy to challenge a recovery proceeding, the writ jurisdiction of this Court should not be invoked at the initial stage.

5. Hence, this Court finds it appropriate to direct the petitioner to avail of the statutory remedy before the Special Recovery Officer. All the questions raised by the petitioner, including his claim that no certificate under Section 107 has been issued against him, are kept open to be considered by the Special Recovery Officer in accordance with law.

6. Accordingly, the writ petition is disposed of with liberty to the petitioner to approach the competent authority under Rule 19 and Rule 107 of the Maharashtra Cooperative Societies Rules, 1961.

7. No opinion is expressed on the merits of the contentions raised.

(AMIT BORKAR, J.)