

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

**CIVIL WRIT PETITION NO. 7824 OF 2025
WITH
CIVIL WRIT PETITION NO. 13944 OF 2025**

Gopi Rajesh Gupta	..Petitioner
Versus	
The State of Maharashtra & Ors.	..Respondents

Mr. Abhishek Avachat a/w. Siddhant Deshpande a/w. Indrajeet Jagdale for Petitioner in both petitions.

Ms. Snehal S. Jadhav, AGP for State/Respondent No.1 in WP/7824/25.

Mr. J. P. Patel, AGP for State/Respondent No.1 in WP/13944/25.

**CORAM : AMIT BORKAR, J.
DATE : 17 NOVEMBER 2025**

PC :

1. Both petitions question the auction conducted by the creditor under Sub Rule 11 of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961. The scope of interference is limited. The Court must examine whether the authority acted within its jurisdiction and whether the material facts justify invocation of the recovery machinery. Once the creditor proceeds under Rule 107, the process attains finality unless the action suffers from a jurisdictional flaw. The record does not show any such flaw.

2. The petitioners do not dispute that their father stood surety for the loan which forms the basis of the demand raised under Section 101 of the Maharashtra Cooperative Societies Act. This admission carries weight. A surety binds himself to secure repayment. His property becomes liable for the dues in case of default. Once the certificate is issued, the liability attains crystallisation. The authority is empowered to proceed against the assets of the surety.

3. The petitioners also do not dispute that the certificate under Section 101 was issued against the father. The transfer of the property in favour of the petitioners was made after issuance of the certificate. Such transfer requires close scrutiny. A transferee who claims good faith must show consideration and absence of notice of the claim. The material placed on record does not establish these elements. The timing of the transfer raises a clear presumption that the property was moved to the hands of the sons to defeat recovery. The father continued to face liability as a surety. The attachment was imminent. In such circumstances, the transfer cannot be treated as bona fide. The law does not permit a debtor or surety to frustrate statutory proceedings by resorting to intra family transfers made after issuance of the certificate.

4. In view of these findings, there is no merit in the petitions.

5. The petitions are therefore dismissed.

6. Both the petitions are disposed of.

(AMIT BORKAR, J.)