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

WRIT PETITION NO.7826 OF 2025

Gopi Rajesh Gupta

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

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GANESH
KULKARNI
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Mr. Abhishek R. Avachat with Mr. S.H. Deshpande for
the petitioner.

Smt. M.S. Srivastava, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 25, 2025

P.C.:

1. The writ petition questions 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 petitioner does not dispute that his father stood surety for the loan which forms the basis of the demand raised under Section 101 of the Maharashtra Cooperative Societies Act, 1960. 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

crystallization. The authority is empowered to proceed against the assets of the surety.

3. The petitioner also does not dispute that the certificate under Section 101 of the MCS Act was issued against the father. The transfer of the property in favour of the petitioner 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 son 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 transfer made after issuance of the certificate.

4. In view of these findings, there is no merit in the writ petition. The writ petition, accordingly, stands dismissed.

5. No costs.

(AMIT BORKAR, J.)