

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9973 OF 2025

Pandit Vasantryao Ingole

..Petitioner

Versus

The Divisional Joint Registrar Coop Soc Pune &
Ors

...Respondents

Mr. P.D. Dalvi, with Vipul Shah, for the Petitioner.

Mr. Laxman Deshmukh, i/b Prashant S. Hagare, for Respondent Nos.
2 and 3.

Mrs. Sulbha Chipade, AGP, in WP/9973/2025.

CORAM: N. J. JAMADAR, J.

DATED : 25th JULY 2025

P.C.:

- 1.** Heard the learned Counsel for the parties.
- 2.** The challenge in this Petition to the order passed by the Joint Registrar, Cooperative Societies, Pune Division, Pune, whereby the Revision Application preferred by the Petitioner against an order dated 10th June 2023 of attachment of the subject property came to be dismissed, affirming the order passed by the Recovery Officer. The Joint Registrar was of the view that Revision was not maintainable against the said order.

ARUN
RAMCHANDRA
SANKPAL

Digitally signed by
ARUN RAMCHANDRA
SANKPAL
Date: 2025.07.28
20:17:38 +0530

3. Mr. Dalvi, the learned Counsel for the Petitioner, submits that the Petitioner was a guarantor to the loan raised by Neela Vasant Awatade; the Petitioner had repaid the entire amount and, thereupon, the Respondent No.3-society had issued a 'No Dues Certificate' and pursuant thereto the charge on the subject property came to be deleted vide Mutation Entry No. 41717 certified on 18th November 2022. Thereafter, the Respondent No.3 initiated proceeding before the Assistant Registrar for grant of Recovery Certificate under Section 101 of the Maharashtra Cooperative Societies Act 1960 ("the Act of 1960"). Mr. Dalvi invites attention of the Court to the 'No Dues Certificate' and the Mutation Entry evidencing the consequent deletion of the charge over the subject property.

4. Mr. Deshmukh, the learned Counsel for Respondent No.3, counters the submission of Mr. Dalvi. Mr Deshmukh submitted that the Petitioner had in fact instituted a Suit seeking declaration and release of the subject property, before the Civil Court. An Application for temporary injunction preferred in the said Suit came to be dismissed. Thereafter, the Petitioner has filed the instant Petition. It was further submitted that the Petitioner had initially filed Writ Petition No. 1758 of 2024 and had withdrawn the said Petition with liberty to file an appropriate proceeding to challenge the attachment order passed by the Recovery Officer, as the Petitioner has failed to comply with the undertaking to

deposit the amount, subject to which the ad-interim relief was granted in the said Petition. In these circumstances, the Petition does not deserve to be entertained, submitted the learned Counsel for Respondent Nos. 2 and 3.

5. Having heard the learned Counsel for the parties and perused the material on record, this Petition does not deserve to be entertained, as the Petitioner was impleaded as a party to the proceeding initially filed before the Assistant Registrar for grant of Recovery Certificate under Section 101 of the Act of 1960, and was duly served with the notice, and, yet, the Petitioner had not appeared before the Assistant Registrar. The said Recovery Certificate is the basis of the subsequent attachment and sale of the attached property. If the Petitioner was aggrieved by the said Recovery Certificate, the Petitioner was required to adopt the statutory remedy provided under the Act of 1960.

6. Since a submission was made on behalf of the Petitioner that the Respondent No. 3 had issued the 'No Dues Certificate' and consequent thereto, the encumbrance over the subject property was removed, and the Respondent No.3, in turn, claims that the said documents are forged and fabricated, the Court considers it appropriate to provide limited protection to the Petitioner to approach the Appellate Authority under the Act of 1960.

- 7.** The Petition thus stands disposed with liberty to the Petitioner to file an Appeal before the Appellate Authority-the Joint Registrar, within a period of three weeks.
- 8.** For the said period of three weeks, the steps to sell the attached property be deferred.
- 9.** It is hereby made clear that the Appellate Authority, shall decide the proceeding filed by the Petitioner in accordance with law and on its own merits. This Court has not delved into the legality and correctness of the Recovery Certificate. Nor the claim of the parties with regard to the genuineness of the no dues certificate and the consequent certification of the Mutation Entry, has been examined by this Court. All contentions of all the parties are kept open for the consideration of the Appellate Authority.
- 10.** Subject to aforesaid clarification, the Petition stands disposed of.

[N. J. JAMADAR, J.]