

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

WRIT PETITION NO.10838 OF 2025

Avinash Rajaram Gawde

... Petitioner

Vs.

The Cosmos Co-operative Bank Ltd. & Ors.

... Respondents

Mr. Rishabh Shah a/w Saurav Pandey i/by Jenny Karakasia for the
Petitioner.

Mr. Vishal C. Ghosalkar a/w B. Kadam for Respondent No.1.

**CORAM : M.S. KARNIK &
N.R. BORKAR, JJ.**

DATE : 06TH AUGUST 2025

P.C. :

1. Heard Learned Counsel for the parties.
2. The Petitioner is the owner of shop premises, of which the possession is sought to be taken in terms of the impugned order. The Petitioner was a guarantor towards the loan which was taken by the borrower from Respondent No.1-The Cosmos Co-operative Bank Limited. The Petitioner states an urgency that the possession of the said property is being taken tomorrow, i.e., on 07th August 2025.
3. We inquired with Learned Counsel for the Petitioner that as to why the present Petition was filed at the last minute, he submits that the

Petitioner was not aware of any of the recovery proceedings that were initiated against the borrower and the subsequent orders passed therein. It is submitted that the Petitioner at no point of time was served.

4. Learned Counsel for the Petitioner submits on instructions that the Petitioner is willing to negotiate with the bank for settlement and the Petitioner is ready to deposit a sum of Rs.10,00,000/- by 13th August 2025. A further sum of Rs.10,00,000/- will be deposited with the bank within a period of four weeks from today.

5. According to Learned Counsel for Respondent No.1, the total outstanding amount is Rs.4,85,00,000/-. Learned Counsel for Respondent No.1 submits that even for challenge to Section 101 Certificate, deposit of 50% amount is necessary. It is submitted that Section 101 Certificate under the Maharashtra Cooperative Societies Act, has attained its finality and the Petitioner was aware of the proceedings. It is submitted that the Petitioner now cannot raise any contention that he is not aware of any of the proceedings and in any case the present Petition is not maintainable. Without prejudice to the rights and contentions, Learned Counsel for Respondent-Bank submits that challenge to the impugned order is not maintainable, as the order is wholly in the nature of an execution pursuant to issuance of Section 101 Certificate.

6. Stand over to **21st August 2025** under the caption 'fresh admission'.
7. We are inclined to grant limited protection to the Petitioner in view of the fact that the Petitioner is willing to deposit a sum of Rs.20,00,000/- with the Respondent-Bank. The Petitioner is conducting his business through the subject premises. The Petitioner is a guarantor for the loan.
8. Hence, till the next date, the Petitioner not to be dispossessed from the subject premises.
9. The Petitioner shall not create any kind of third party interest in the subject premises till further orders of the Court.

(N.R. BORKAR, J.)

(M.S. KARNIK, J.)