



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.6282 OF 2024

(Special Recovery Officer The Wardha Nagari Sahakari Adhikosh (Bank) Maryadit,
Wardha and another Vs. The learned Additional Divisional Commissioner, Nagpur
Division, Nagpur and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. K. R. Jain, Advocate for Petitioner.
Mr. B. M. Lonare, AGP for Respondent Nos.1 to 4/State.
Mr. P. R. Agrawal, Advocate for Respondent No.5.

CORAM: R. M. JOSHI, J.

DATE: 30th JUNE, 2025.

1. A question arises in this petition, as to whether revenue authorities exercising the power under Maharashtra Land Revenue Code, 1966 (in short hereinafter referred as MRL Code, 1966) can be permitted to circumvent order passed by the Competent Court – authority under different statute including Maharashtra Co-operative Societies Act, which has been done herein this case by the Additional Collector and Divisional Commissioner while passing the impugned order.

2. There is no dispute about the fact that order came to be passed by Special Recovery Officer under Rule 107 of the Co-operative Societies Act read with 101 and 156 of the Co-operative Societies Act, whereby the subject properties were attached. The said attachment was duly communicated to the revenue authorities for creating charge on the property and accordingly entry was taken in

the revenue record. Tahsildar accordingly recorded the charge. The challenge raised to the said order of Tahsildar was unsuccessful before the Sub Divisional Officer. The respondent challenged this order before the Additional Collector, who by order dated 21.03.2024 set aside the order passed by Sub Divisional Officer with observations that there is no mortgage executed in respect of the subject property and therefore charge cannot be created over the same. This order is confirmed by the Divisional Commissioner. Hence, this petition.

3. Learned Counsel for the petitioner submits that it was not open for the revenue authority to cause inference in the order passed under the Co-operative Societies Act even indirectly. It is his submission that once such order is passed, unless the order is set aside by the competent authority/Court, it would bind revenue authority for all purposes including recording of charge on the property.

4. Learned Counsel for the contesting respondent has attempted his best to point out the alleged *mala fides* on the part of the authorities under the Co-operative Societies Act in attaching the property. It is his contention that in the facts of the case the order impugned need no interference.

5. Even if this Court accepts the contention of the Counsel for the contesting respondent about he is having arguable case in respect of the merits of the order of attachment, still question arises as to whether it was open revenue authorities to go into the same and practically cause

interference therein.

6. Under the Land Revenue Code, once application is moved for recording the change or mutation in respect of the land, it is not open for the revenue authorities to go into the correctness or legality etc. of the document/order on the basis of which the mutation is sought to be effected. Permitting the same to the revenue authorities will allow them to circumvent the orders of any court or authority under any other law, by interfering in the same, which is wholly impermissible.

7. If the respondents had any grievance in respect of the order of attachment dated 13.07.2021 it ought to have been challenged before the competent authority – court. However, the revenue authorities even indirectly cannot be allowed to go into merit of the same. For this reason alone the orders impugned cannot be sustained. Hence, set aside. Order passed by Tahsildar stands restored.

8. It is however, clarified that it would be open for the respondent to take exception to the order of attachment if respondent so desired in accordance with law. All contentions of the respondents are obviously kept open in respect of the said challenge, if raised.

9. Petition stands allowed in above terms.

(R. M. JOSHI, J.)