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

WRIT PETITION NO. 3483/2025

Vijay Kher & others

...VERSUS...

State of Maharashtra & others

Office Notes, Office Memoranda of Coram, Court's or Judge's orders

appearances, Court's orders or directions
and Registrar's orders

Shri R.L. Khapre, Sr. Adv a/b Shri S.P. Deshpande, Shri V.S. Giramkar, Shri K. Jain & Shri

P. Lingayat, Advocates for the Petitioner(s)

Shri V.A. Thakare, AGP for the Respondent/State

CORAM:- M.S. JAWALKAR & PRAVIN S. PATIL, JJ.
JULY 04, 2025

. Heard learned Senior Counsel for the Petitioners.

(2) By this Petition, the Petitioners are challenging the order dated 04/03/2025 passed by the Respondent No. 3 – District Magistrate, Nagpur under Rule 107(11)(d-1)(vi) of the Maharashtra Co-operative Societies Rules, 1961 and the communication dated 18/06/2025 issued by the Respondent No. 4 – Tahsildar, Nagpur.

(3) The Petitioner received a notice dated 20/06/2025 from the Respondent No. 5 – Shikshak Sahakari Bank Limited, Nagpur along with the communication dated 18/06/2025 issued by the Tahsildar in which

it was informed that the Tahsildar will be taking physical possession of the properties mentioned in the said notice on 10/07/2025 at 11:00 am.

(4) The execution of recovery certificate after more than 20 years is under challenge in this Petition. The Petitioners are also challenging Rule 107(11)(d-1)(vi) of the MCS Rules as unconstitutional.

(5) After going through Rule 107(11)(d-1)(vi) of the MCS Rules, *prima-facie* it appears that the impugned order is not sustainable. The properties mentioned in the Schedules A & B are already mortgaged with the IndusInd Bank and Financial Institution namely HSB and the property mentioned in the Schedule C is transferred by way of executing Registered Development Agreement dated 24/06/2005.

(6) In view of the above facts, issue notice to the Respondents as well as the Advocate General, returnable on 21/07/2025.

(7) Learned AGP waives notice for the Respondent Nos. 1 to 4 and Advocate General.

(8) In the meanwhile, there shall be ad-interim relief in terms of prayer clause (e).

(9) The present Writ Petition be listed along with Writ Petition No. 3450/2025.

(PRAVIN S. PATIL, J.)

(M.S. JAWALKAR, J.)