

MHTH030135782025



Criminal Misc. Application No.1759/2025

Reliance Co-operative Credit Society Ltd.

Vs.

1. Anil Sirumal Harjani
2. Vijay Choutharmani
3. Kamlesh M. Gidwani

ORDER BELOW EXH. 1

This is an application under Rule 107(11)(d-1)(vi)(a) of the Maharashtra Co-operative Societies Rules, 1961 (in short “MCS Rules”) for taking possession of the attached property known as :

“All that piece and parcel of Flat No.5, Municipal Ward No.12, Property No.12AIO15239200, old Property No.12/0220, second floor, in the building known as Thadani Apartment, Near Goal Maidan, Ward No.12, Zone No.A – I, Ulhasnagar 02, District-Thane, admeasuring area about 395 square feet, within the Registration District and Sub Registration District-Ulhasnagar, District-Thane and within the limits of Ulhasnagar Municipal Corporation”.

2] Heard Ld. Advocate on behalf of applicant and I have carefully gone through the application, affidavit and documents on record viz Recovery certificate, Demand Notice etc. From the record, it is very much clear that Respondents are borrowers and guarantors for loan facility by its loan documents dated 04/12/2019. However, respondents failed to refund the said loan amount. The applicant has classified the account of such debt as Non Performing Asset (NPA). Therefore, the applicant constrained to file a dispute before the Maharashtra Co-operative Societies Act and accordingly, recovery certificate issued on 27/10/2022 in favour the Applicant's Bank Recovery Certificate No. सनि/उ.नगर/बी-१/वसुली दाखला/१०१/३९९/सन २०२२ for a total outstanding of Rs.3,54,718/-.

3] Thereafter, Special Recovery Officer as per the provisions of

Rule 107(11)(d-a) of the MCS Rules, on the basis of above recovery certificate, issued demand notice dt. 31/10/2022 to the respondents and the same has been received by them. However, the respondents failed to comply the notice. Hence, the applicant has completed necessary conditions as required under MCS Rules. Further, it is very much clear from the Demand Notice under section 156 of MCS Act read with Rule 107 of the MCS Rules, issued by Special Recovery Officer, that an amount of Rs.3,73,605/- is recoverable from the respondents. Thereafter, the recovery officer took symbolic possession of the property. The applicant issued possession notice dated 13/03/2025. The said symbolic possession notice published in english and marathi newspaper. Further it also reveals from the affidavit that no case is pending in respect of the property referred above and there is no tenant/leasee and/or any other person in the said property.

4] Considering the facts and circumstances, to my mind, there is no barrier to pass an order in favor of applicant as the property is situated within the territorial jurisdiction of this Court and claim is within limitation. Thus, I proceed to pass following order :

ORDER

- i) Application is allowed.
- ii) Court Commissioner Advocate **Ms. Mugdha Mandar Ghogale (MAH/3203/2012)** is hereby authorised to take possession of the property viz **“All that piece and parcel of Flat No.5, Municipal Ward No.12, Property No.12AIO15239200, old Property No.12/0220, second floor, in the building known as Thadani Apartment, Near Goal Maidan, Ward No.12, Zone No.A – I, Ulhasnagar 02, District-Thane, admeasuring area about 395 square feet, within the Registration District and Sub Registration District-Ulhasnagar, District-Thane and within the limits of Ulhasnagar Municipal**

Corporation”, under panchanama.

- iii) Court Commissioner shall give at least 15 days prior notice to the concerned before executing the order.
- iv) Court Commissioner to take such steps and use such force including breaking open the lock or any hurdle thereof by taking assistance of police, if required.
- v) The Police Station officer within whose territorial jurisdiction attached property are located, is hereby directed to provide police aid to Recovery officer, if he/she required so far taking over possession of attached property, upon payment of Bhatta of police as per government rules and regulations.
- vi) Issue writ of commission accordingly on payment of P.F. and Rs.15,000/- (Rupees Fifteen thousand only) inclusive of travelling expenses towards the commission fee directly to the Court Commissioner within 15 days from the date of writ. Court Commissioner to file the compliance report within 45 days from the date of receipt of the Writ.
- vii) Applicant to give contact details of authorized person within 10 days with whom Court Commissioner to co-ordinate.

Thane
Date : 03/05/2025

(S.K. Fokmare)
Chief Judicial Magistrate, Thane