

(2025) 09 MP CK 1128

In the Madhya Pradesh High Court, Indore Bench

Case No : Writ Petition No. 35680 Of 2025

Prayas Credit Co Oprative Society Limited Through Manager
Ravindra Kumar

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 09-09-2025

Acts Referred:

Constitution Of India, 1950 — Article 226

Madhya Pradesh/Chhattisgarh Co-Operative Societies Act, 1960 — Section 3, 63, 64, 66, 69, 71, 77, 78, 84, 84A, 85, 85A

Madhya Pradesh Land Revenue Code Act, 1959 — Section 155

Citation : (2025) 09 MP CK 1128

Hon'ble Judges : Pranay Verma, J

Bench : Single Bench

Advocate : Avinash Kumar Khare, Dr. Amit Bhatia

Final Decision : Allowed/ Disposed Of

Judgement

Pranay Verma, J

1. By this petition preferred under Article 226 of the Constitution of India the petitioner has challenged the orders dated 18.07.2025 (filed by the petitioner from page No.185 to 246) passed by the Tehsildar, Tehsil Manasa, District Neemuch whereby he has transferred the recovery proceedings to the SCR office.

2. In proceedings instituted by the petitioner against its members for recovery of sum due certificates for recovery were issued by the Assistant Registrar, Co-operative Society, District Neemuch on various dates in exercise of power under Section 84-A of M.P. Co-operative Societies Act, 1960. As per the said Section the arrears as stated in the certificates are recoverable as arrears of land revenue. The said provision is as under:

"84-A. Recovery of sums due to certain societies. (1) Notwithstanding anything contained in sections 64, 69 and 78 on an application made by a cooperative

society for recovery of arrears of its dues, the Registrar may, after making such enquiry as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as an arrear.

(2) The certificate granted by the Registrar shall be final and conclusive proof of the arrears stated therein, and the same shall be recoverable as arrears of land revenue."

3. After issuance of the certificates as aforesaid, the petitioner made applications before the Collector, Neemuch for recovery of the arrears as stated in the certificate. On the application, the Collector forwarded the matter to the Tehsildar, Tehsil Manasa for recovery of arrears as stated in the certificate. The Tehsildar was thereafter enjoined to execute the certificates in view of provision of Section 85 and 85-A of the Act, 1960 which are under:

"85. Execution of orders, etc .- Every order or award passed or decision given by the Registrar under any provision of this Act, every order passed by the Appellate or Revisional Authorities and every order made, decision given by the Liquidator, if not carried out-

(a) on a certificate signed by the Registrar or any person authorized by him in this behalf be deemed to be decree of a Civil Court and shall be executed in the same manner as a decree of such Court; or

(b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue; or

(c) be executed by the Registrar or any other person empowered by the Registrar in this behalf, by the attachment and transfer in the manner as may be prescribed or sale or sale without attachment of any property of the person or a society against whom the order, decision or award has been obtained or passed:

Provided that any application for the recovery under clause (b) shall be made-

(i) to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person authorized in this behalf; and

(ii) within five years from the date fixed in the order, decision or award and if no such date is fixed, from the date of order, decision or award, as the case may be.

85-A. Manner of executing order to deliver possession of immovable property.- Where against any person an order to deliver possession of immovable property has been passed under this Act, such order shall be executed in the following manner, namely:-

(a) by serving a notice on the person or persons in possession requiring him/ them within such time as may appear reasonable after the receipt of the said notice, to vacate the same; and

(b) if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same; and

(c) if the officer removing any such person is resisted or obstructed by any person, appoint any of the officers specified in section 3, who shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance or obstruction still continues may, without prejudice to any proceeding to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, take or cause, to be taken such steps and use or cause to be used, such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the order."

4. As per Section 85 the certificate issued by the Assistant Registrar was to be executed according to law and under the Rules for recovery of arrears of land revenue. The procedure thereof has been provided under Section 155 of M.P. Land Revenue Code, 1959.

5. The Tehsildar, Tehsil Manasa, executed a number of certificates sent to him for recovery as is evident from various orders passed by him which are annexed along with this petition. However, by way of impugned orders he has observed that under Section 63, 66, 71, 77 and 84 of the Act, 1960, it is the senior Co-operative Inspector, Extension Officers etc. who have been empowered to execute the orders, decision and award as passed under the said sections and has transferred the proceeding to them for execution.

6. Section 63 of the Act, 1960 has already been deleted. Section 66 is in respect of settlement of dispute by the Registrar on receipt of evidence of dispute. Section 77 deals with the power of liquidator in case of winding up of a society. Section 77 is in respect of formation of M.P. State Co-operative Tribunal and Section 84 is in respect of enforcement of charge. In the present matter there is no dispute which has been referred to the Registrar for adjudication hence Section 66 does not come into picture. The society has not been liquidated hence Section 71 also has no role to play. Section 77 is only in respect of constitution of tribunal hence is wholly inapplicable. No charge has been created and in fact certificate for recovery of some dues has been issued hence Section 84 is also not applicable.

7. A certificate of recovery under Section 84-A of the Act, 1960 has been issued which as per the said Section and Section 85 and 85-A of the Act is required to be executed as an arrears of land revenue. It is only the revenue authorities who are empowered to execute the same. The Collector, District Neemuch had forwarded the matter to the Tehsildar for such execution who is bound to execute the certificate. None of the Co-operative Authorities as have been stated in the impugned orders are empowered under the Act itself to execute such certificates issued under Section 84-A of the Act. The Tehsildar has hence erred in transferring the proceedings to them and closing the same. The orders passed by him hence cannot be sustained.

8. Consequently, the orders dated 18.07.2025 passed by the Tehsildar, Tehsil

Manasa, District Neemuch are hereby quashed and he is directed to proceed further with the execution of the certificates in accordance with law and in view of the provision of Act, 1960.

9. The petition is accordingly allowed and disposed off.